

NASHUA CITY PLANNING BOARD  
December 15, 2005

A meeting of the Nashua City Planning Board was held on Thursday, December 15, 2005 at 7:00PM in the auditorium at City Hall.

Bette Lasky, Chair, conducted the Meeting.

Members Present: Mike Lowe, Mayor's Representative  
Bette Lasky, Chair  
Ken Dufour, Vice Chair  
Ald. Richard Larose  
Steve Dookran, City Engineer  
Steve Farkas  
Hugh Moran  
George Torosian

Also Present: Roger Houston, Planning Director  
Mike Yeomans, Deputy Planning Manager  
Rick Sawyer, Deputy Planning Manager

**Approval of Minutes**

11/3/05

**MOTION** by Mr. Lowe to approve the minutes of 11/3/05, waive the reading and place on file.

**SECONDED** by Mr. Moran.

**MOTION CARRIED 7-1, Mrs. Lasky abstaining**

11/17/05

**MOTION** by Mr. Lowe to approve the minutes of 11/17/05, waive the reading and place on file.

**SECONDED** by Mr. Moran.

**MOTION CARRIED UNANIMOUSLY**

**Communications**

Mr. Houston said the following items were in the Board's folder tonight:

NCPB

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## Planning Board Agenda

Letter dated 12/13/05 from HSI (Jim Petropulos) asking that the case on 409 Amherst Street be postponed.

Amended resolution R-05-334 relative to Business Item #2 on the Board's agenda tonight.

## 2006 Meeting and Deadline Dates

There are number of items on the Wal-Mart site plan that is under Old Business tonight. There is a list of a number of people who signed up to speak. There is a letter that was faxed to the Board from Atty. Callen dated 12/12/05 referencing objection to site plan approval for Wal-Mart at 420 Amherst Street. There is an undated communication from a Judy Hogan, 71 Watson Street, Nashua that was received December 8, 2005 relative to concerns with Wal-Mart. There is another communication dated December 8<sup>th</sup> from Edward A. Reitman, PHD, 8 Crawford Lane, Nashua, NH also in objection to Wal-Mart. There is another undated communication received by the Planning Department December 14, 2005 from Louise Dedekian, 1 Clocktower Place, Apt 405, Nashua, NH. There are also aerial photos as part of the traffic impact analysis. There is a communication from Jennifer Craffy, 109 Vine Street, Nashua, NH dated 12/14/05 also with concerns to the Wal-Mart site plan. There is a memorandum dated 12/14/05 from William J. Scully, P.E. relative to the Wal-Mart traffic analysis review. There is a communication from Linda Bretz of the Conservation Commission concerning the review that they sent to the Zoning Board of Adjustment received December 15, 2005. He said they also have received a fax today from Jeff Daley also with concerns on Wal-Mart.

Mrs. Lasky said they also have a letter dated December 14, 2005 from **Alan Jayne**, 11 Dunlap Drive concerning Wal-Mart.

Mrs. Lasky said many of the letters that were received are people who are on the list to speak tonight. They may or may not be present this evening.

## **Report of Chairman, Committee & Liaison**

Mr. Farkas said they had their quarterly meeting last night at NRPC. One of the things they talked about was the 101 widening project going from Celina Avenue all the way out going towards Milford from five lanes to seven lanes. The preliminary design

is going from 2005 to 2006. The actual construction will be 2007-2009.

He said another item they talked about was the Daniel Webster Highway/Spit Brook Road intersection. The signal optimization has been delayed another year as requested by the City. This is the third Christmas season in a row that the City has requested this be delayed.

He said they also talked about commuter rail. It seems to be going pretty well. There was a practice ride from Lowell. In conjunction with that there is an application pending to bring commuter bus service into the area. This will go into Boston to South Station and the Airport. NRPC has endorsed this.

He said they have done a planner training program that was pretty successful and that is going to be expanded and modified to training the Planning Board members.

Mrs. Lasky made a couple of announcements before the meeting began as follows:

**WITHDRAWN**

**OLD BUSINESS - SITE PLAN**

3. Armand Sancartier (Applicant) Exxon/Mobil Oil Corporation (Owners) - Proposed amended to NR1625 to demolish the existing fueling station and to show the construction of a two bay, 1,764 square foot car wash facility with associated access, parking and site improvements, 267 Main Street & Prospect Avenue, Sheet 97 - Lot 13, Zoned GB/MU - General Business/Mixed Use.

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Tabled to January 12, 2006

**NEW BUSINESS - SUBDIVISION PLAN**

4. 74 Cox Street LLC (Applicant), Andrea J. Harding (Owner) - Proposed subdivision of one lot into two, 74 Cox Street, Sheet 137A - Lot 17, Zoned "RA" - Urban Residence.

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Tabled to January 12, 2006

**NEW BUSINESS - SITE PLAN**

5. Bellwether Community Credit Union (Applicant) George M. & Howard M. Kessler (Owners) - Proposed site plan for the construction of a 2-story, 9,000 square foot credit union with drive-thru and associated access, parking and site improvements, 409 Amherst Street, Sheet H - Lots 32 & 469, Zoned "GB" - General Business and "RC" - Urban Residence.

Tabled to January 12, 2006

7. Gerard Reppucci (Owner) - Proposed site plan for the construction of a first floor, 2068 square foot Laundromat and two residential units on the second floor with associated access, parking and site improvements, Kinsley & Badger Streets, Sheet 86 - Lots 74 & 65, Zoned "LB" - Local Business.

Lasky went into the procedure of the meeting as follows:

After the legal notice of each site plan or subdivision is read by the Chair, the applicant or his representative will be given time to present an overview and description of their project. The applicant shall speak as to whether or not they agree with the staff stipulations.

The Board will then have the opportunity to ask questions of the applicant or staff. The Chair will ask for testimony from the audience, first anyone wishing to speak in opposition or with concern to the plan may speak. Come forward to the microphone and state their name and address for the record. This would also be the time to ask questions they have regarding the plan.

Next follows testimony coming from anyone wishing to speak in favor of the plan before the Board. The Board asks that both sides keep their remarks to the subject at hand and try not to repeat what someone else may have said.

After the public testimony is given the Board will discuss the issue and render their decision.

#### OLD BUSINESS - SUBDIVISION PLAN

1. AS-VR Realty, LLC (Owner) - Proposed 15,524 square foot right of way dedication, 420 Amherst Street, Sheet H - Lot 485, Zoned "AI" - Airport Industrial.

MOTION by Mr. Lowe to remove from the table.

**SECONDED** by Ald. Larose.

**MOTION CARRIED UNANIMOUSLY**

**OLD BUSINESS - SITE PLAN**

2. Wal-Mart Stores Inc. (Applicant), AS-VR Realty, LLC (Owner) - Proposed amendment to NR1482 for the demolition of the existing Building 19 store and the development of a 147,080 square foot Wal-Mart store, with associated access, parking and site improvements, 420 Amherst Street, Sheet H - Lot 485, Zoned "AI" - Airport Industrial.

**MOTION** by Mr. Lowe to remove from the table.

**SECONDED** by Mr. Dufour.

**MOTION CARRIED UNANIMOUSLY**

Mrs. Lasky said they heard testimony last week on the Wal-Mart plan. As discussed last week the Board will be hearing first from the people who are in opposition to the request and only from the people who signed up on the sheet at 11:30PM on December 8<sup>th</sup> to speak and those people the Board may ask questions of, such as experts on certain issues. They will then hear from the people who signed up who wish to speak in favor of the plan.

There was a discussion about what the Board should do if they are still hearing the Wal-Mart case at 11:00PM or 11:30PM. It was decided that if they were still listening to testimony on Wal-Mart at 11:00PM they would table it and then go to the items that were advertised for this meeting.

Mrs. Lasky read the first name on the list from last week's meeting and asked the other people to line up.

Nancy Zlotek, 42 Vespa Lane. Mrs. Zlotek said she has resided at 42 Vespa Lane for thirty-three years and has been a business owner for twenty-five years at 493 Amherst Street, the retail plaza at the corner of Thornton Road & Amherst Street - two lights beyond the proposed site.

She said she wanted to address Section 16-123 of the Planning Board criteria which states that the proposed use can co-exist with the surrounding uses and that the proposed use shall not have significant impact on the surrounding uses. She said she

wanted to speak for the small business owner's who exist on Amherst Street. She said there are hundreds of them from Exit 7 all the way up to Pennichuck Square and beyond. She said every day they fight for visibility on a road where people travel at speeds of up to 40 MPH. It would be nice if everybody could erect a 30' high neon lighted sign, but the City frowns on that for small businesses and only allows that privilege to very large stores.

She said when you increase traffic to such a degree as they've been talking about the last two weeks, traffic is a detriment to shopping. People avoid that area at all costs and it results in loss of sales for small businesses. She said she's sure all of them have had a situation where they have tried to locate a business on a heavily traveled road such as this, negotiating three lanes of traffic at high speeds, trying to watch for the landmarks that have been given to you, and keep your own vehicle under control. Then by the time you do notice that location you have gone by it. Then you have to decide whether you want to go up the road and find the nearest jughandle to turn around and start all over again. He said these are the challenges that small businesses face in trying to maintain and increase their customer base.

She said if a business is placed in this proposed site that will increase traffic volume exponentially they are sounding a death knell for a lot of small businesses.

Mrs. Zlotek said business owners and also residents are not trying to prevent Wal-Mart from having a presence in this area, but they already have a presence at both ends of town, albeit over the City line. It's no hardship for residents to get to one of these locations.

She said they recognize the right of the owner of the property to develop this property to his advantage. That's why people are in business. If you are to keep in character with the area and you look at that side of Amherst Street (from 400 Amherst Street across from Somerset Plaza up to Townsend West - the Country Tavern area), almost all the buildings in that area, with the exception of the proposed site and two restaurants are office buildings. She said it would be a far better use of the land to put an office building there that would not increase traffic problems in any appreciable way.

Mrs. Zlotek commended Mr. Dufour for stating the obvious. There is a serious traffic problem on this road at the present time

with no real solutions at hand. She said the Planning Board is supposed to encourage correction of those problems before creating a much more serious situation. Tweaking traffic lights a few seconds and putting 500 yards of pavement down is not going to solve this problem.

David Hillel Wilson, 6 Vernon Street. Did not come forward to speak.

Louise Dedekian. Did not come forward to speak. Her letter was mentioned in the beginning remarks.

Rena Lias Claffey, 32 Deerhaven Drive. Mrs. Claffey said she is a member of Citizen's Action for Southern New Hampshire. Mrs. Claffey said her understanding is that the Board must determine that the proposed use can co-exist with the surrounding uses and that the proposed use shall not have significant impact on the surrounding uses.

She said a new Wal-Mart Super Center would have a significant and negative impact on existing establishments in the area, and therefore the Planning Board should reject it. Some people feel a new Wal-Mart would improve conditions for area businesses. Two weeks ago in the Telegraph the owner of the Country Tavern said the whole area is going to benefit, but it has to be done right. She said on the contrary studies show that so called "big box retailers" like Wal-Mart, will hurt surrounding locally owned businesses. One study by Civic Economics said that in Austin, Texas local merchants generated three times as much local economic activity as a new chain store adjusted for revenue. Those results have been replicated in studies of two other areas - Maine's mid coast region and Toledo, Ohio. The Civic Economics authors caution that "great care must be taken to ensure that public policy decisions do not inadvertently disadvantage local firms." She said a policy decision today in favor of Wal-Mart would disadvantage Nashua's firms.

Mrs. Claffey said a 2005 study looked at Wal-Mart specifically. Economist Emmett Basker ??? of the University of Missouri examined local data surrounding 2,382 Wal-Mart stores in the United States. The analysis shows that upon Wal-Mart's entry, the increase in the number of large retail establishments is 0.7 - almost 1. Since the entry of a new Wal-Mart equals 1 new establishment, .7 means another big retailer or two closed in many of the areas study.

She said as for the number of medium sized retail establishments, 20-99 employees, there was an actual decrease after Wal-Mart came in. Medium retail establishments declined by .7, meaning less than 1 closed per Wal-Mart entry. The study notes that all Wal-Mart's compete with apparel stores, hardware stores, book stores, and music stores, many of which have establishments in the immediate vicinity of 420 Amherst Street.

She said as for grocery stores, there's no question that a Super Wal-Mart competes directly. She said the Market Basket where she shops at in Somerset Plaza is unlikely to survive the onslaught of the under priced competition, let alone the traffic mess that is likely to keep people like her, who can't walk to the store, out of the area completely.

She said small establishments take the hardest hit from Wal-Mart. These have fewer than twenty employees. The study shows a decline of four establishments within five years of Wal-Mart's entry - three of them within two years. She said most of the shops along 101A fall into the small establishment category. Many of them offer products or services that would directly compete with the Super Wal-Mart.

Mrs. Claffey said the important contributions of these locally owned shops and franchises should be paramount in the Planning Board's considerations. She said while the owner's themselves may feel that they can withstand the Wal-Mart challenge, the numbers show that some of them will not.

Mrs. Lasky asked if Mrs. Claffey had the date of the other studies she mentioned in her testimony, other than the 2005 study.

Mrs. Claffey said she didn't note the year, but she had a copy of the citations, which she provided to the Board.

Jocelyn Demuth, 7 Lynde Street, Nashua. Ms. Demuth said the Planning Board heard a lengthy presentation last week regarding Wal-Mart's plan to build a Super Center at 420 Amherst Street.

She said it is important to keep in mind the underlying assumptions that support the details. She said there are five things they have to believe in order to conclude that Wal-Mart has met the "minimum determinations for site plan review".

She said they have to believe that bringing more oil, gas, anti-freeze, and MBTE to a wetland area will make the water cleaner, not dirtier.

She said they have to believe that adding four times the amount of traffic on Amherst Street will improve, rather than congest the flow of traffic.

She said they have to believe that adding another store selling similar household goods to at least ten stores within two miles in identical goods to a store within four miles will not have an adverse affect on the surrounding businesses.

She said they have to believe that citizens will not choose between Market Basket and Wal-Mart or Target and Wal-Mart or Staples and Wal-Mart, but instead go to both stores and buy twice as much stuff.

She said they have to believe that adding a pedestrian light on 101A will cause Nashua drivers to become docile and patient. She said they would have to believe that no one will become reckless at being stopped at successive lights and not run the red light and possibly kill or injure that pedestrian.

She said they have to believe that the 900 calls a year that the Amherst Police respond to at the Amherst Wal-Mart will not happen at a Nashua Wal-Mart. She said they have to believe that Nashua will be different from Amherst, Epping, and many other towns across the country that have found the need for increased Police coverage to "big box" stores.

Ms. Demuth said even if they don't believe these things, Wal-Mart is still banking on the one thing they hope the Board believes. She said most of all they hope the Board believes it will be good enough to have made the attempt to meet the minimum criteria and forgive them if they haven't met the criteria.

She said when the Zoning Board rejected Wal-Mart's first plan due to traffic concerns, Atty. Prunier argued that the Zoning Board's decision to deny the request was both unreasonable and illegal. In other words, because Wal-Mart has found experts who would testify that more cars equal less traffic problems and more pollution equals cleaner water, it would be illegal for the Board not to believe them.

Ms. Demuth said the Courts of New Hampshire have consistently upheld the rights of local Boards to rely on their own common

sense. She said in the Case of Rare & Co. ??? vs. Town of Henniker, the Court upheld the right of Henniker to deny the building of a Rite-Aid in town. The court ruled that the question to be considered was not whether Rite-Aid's plan was reasonable, but whether the Board's decision to deny Rite-Aid was contradictory to reason. She said the State Supreme Court has written in multiple cases that they rule only on whether local Boards have made a reasonable decision. She questioned how much more reasonable it could be to deny Wal-Mart and protect the City's drinking water from pollution and the City's busiest road from further congestion.

She said Wal-Mart is hoping that because they have been trying to build on this site for three years and have been kind enough to submit not one, but two plans, that it would be unreasonable to turn them down. This sentiment helped to sway the Conservation Commission. She said in their discussion to recommend Wal-Mart's plan to the Zoning Board, the Commissioners brought up, at least three times, the length of time that Wal-Mart had applied, in their deliberations. She said this is not a legal argument.

She said if the Board would consider it, she asked them to consider the time spent by the citizens of Nashua, who have not been paid and have lost money and time off from work to research the findings to present to the Board and paid money to baby sitters in order to come to multiple meetings and have given money in donations and yard sales to bring legal and scientific representation to advocate for clean water and the quality of life in their City.

Edward Rietman, 8 Crawford Lane, Nashua, NH. Mr. Rietman said he has a PHD in physics, with emphasis in complex system modeling. He said he's written six books published by McGraw-Hill. Four of the books are on complex system modeling. He said he has over one hundred technical papers and referee journals and about two dozen patents issued or pending. He said he worked at Bell Labs for twenty years where he constructed complex system models, including impact studies of factories and their affects on the community.

He said the Conservation Commission not only overlooked complex testimony, but deliberately voted to disregard expert testimony on the effects of dissolved solids and parking lot runoff. This is all pointed out in detail in the September 6, 2005 minutes. At that September meeting Dr. Roseen presented a several page document discussing modeling of parking lot runoff and dissolved

compounds. Rather than take this into consideration, NCC voted to disregard it and then voted to approve the Wal-Mart proposal. They added standard stipulations. None of these stipulations would be required by a good corporate citizen who cared about the community. The stipulations addressed pulling weeds, sweeping the parking lot, putting up a fence to keep trash out of the ponds, notification to the City when the project starts and when it ends, obtaining building permits, and filing erosion and water quality logs. The serious stipulations like enforcement of water quality were not discussed.

He said dozens of States have filed environmental complaints associated with water quality from Wal-Mart construction sites and operating stores. The company has settled in and out of court for millions of dollars of damages to storm water and drinking water surrounding their stores. He said a more serious stipulation such as asking Wal-Mart to put up ten million dollars escrow to cover future damage would make them think they are really serious about the City's drinking water.

Mr. Rietman said it would be okay to disregard Dr. Roseen's testimony if it was redundant, but that's not the case. The NCC did not ask Wal-Mart engineers to conduct similar studies. They did not ask for dissolved compound studies. They did not ask for a description of the assumptions that went into the models that Wal-Mart engineers conducted. They did not ask for a discussion of the adjustable parameters of the model. They did not ask for sensitivity analysis to test the effects of inputs such as parking lot runoff on the surrounding wetlands. They did not ask for surface response curves. He said they simply rubber stamped the approval. This is the City's wetlands and drinking water supply they are talking about.

He said he would put Dr. Roseen's testimony from last week into layman's terms. He said at the same time he wanted to show some of the results that can be uncovered by sensitivity analysis and simple chemical analysis. He said one of the pollutants in air is known as NOX - oxides of nitrogen. This gas mixes with rainwater to form dilute nitric acid. Nearly every metal in the periodic table is soluble in nitric acid. These metal nitrates are very soluble and will not be trapped by the Vortech units.

He said on the existing site there are large areas of grass - actually weeds, which are actually better because it's not a mono culture. There are islands with large trees. The grassy areas and the trees act to remove nitrate from the rainwater. It

filters through a foot or so of weed and tree roots, soil bacteria, and tiny bugs. He said this entire micro eco system works synergistically to remove pollutants, not only nitrates from the air via rain, but also metals and hydrocarbon runoff from the parking lot. By removing the weeds, the trees, and the existing parking lot and covering the parking lot with larger impermeable surface far greater effort will be required to purify the parking lot runoff than is proposed by the Wal-Mart plan.

Mr. Rietman said if Wal-Mart builds the proposed plan and the amount of traffic did not increase above the current Building 19 level of traffic there would only be a 5% improvement in pollution level. He said this means that the proposed high tech runoff treatment and wetland engineering adds very little improvement.

He referred the Board to some material that he had handed out earlier in his testimony. He asked them to look at the graph on the last page. He said they collected rainwater from the Building 19 parking lot runoff as it was entering the storm drain. They also collected the same samples from the Wal-Mart sites in Amherst and Salem. They took the water to a chemist to analyze the total hydrocarbons, lead and zinc. He said the graph shows that the present Building 19 site is cleaner than the Wal-Mart sites. He said it's not reasonable to expect that Wal-Mart will do a better job in Nashua for pollution prevention than they do at their neighbors' sites.

Judy Hogan, 71 Watson Street. Not present - Mrs. Lasky said they have a letter from Mrs. Hogan.

Teresa Moler, 88 Cannongate III, Nashua. Mrs. Moler said her condominium project is located down the road from Building 19. She has lived in her home for about 6 years. She said she usually drives out of Cannongate and then enter Amherst Street by the 7-11 roundabout. She said there's a traffic light at the roundabout. Quite often while turning left onto Amherst Street she finds that the traffic is backed up all the way to the antique store or to the end of the car dealerships. Once on Amherst Street it takes some time getting to the Exit 7 entrance. With this much traffic already, how much more could there be if a popular store like Wal-Mart moves in down the street.

Daniel Hogan, 71 Watson Street. Mr. Hogan said there's a say "Come to Tax Free New Hampshire and they will come".

He said he had a number of figures he was going to give the Board, but Dr. Fuller has similar figures. He said they compared how they arrived at similar figures, both on Building 19 and the various Wal-Marts in the local area. He said he would let Dr. Fuller address the Board with the figures as his are in writing and he will be able to provide the Board with a copy. He said that he agreed with Dr. Fuller's figures right to the last digit, but one thing that he didn't bring in was Massachusetts cars. He said when they looked at the Wal-Mart in Amherst there were practically no Massachusetts cars there, but they will come to Nashua. If you go to the Christmas Tree Shop and look at the cars in the lot, the bulk of them are from Massachusetts. He believes they will experience the same thing at Wal-Mart.

Mr. Hogan said they were told last week that Building 19 only does  $\frac{1}{4}$  of the usual retail trade. He asked what figure they would give to a Super Wal-Mart if that is true.

Mrs. Lasky said they will ask the applicant to answer this question.

Mr. Hogan said Building 19 is open for eleven or twelve hours a day. He is expecting that the Wal-Mart will be open twenty-four hours. He said they have been told that there will be 4,000 trips to Wal-Mart. If this is divided over a twenty-four hour period, that's only 166 cars parked in the lot at any given time. If they were only on a twelve hour day, that's only 333 cars in the parking lot. He expects that the number will be significantly higher.

He said he attempted to get across from the South side of Amherst Street to the North on the six seconds that the light is red. He said it took him two tries. He said he could get across three lanes of traffic and stop in the middle in the dividing strip and then wait for the next cycle to go across the last three and it was treacherous trying to do it. The average individual won't have that amount of time to go across that street. If lanes are added to it, it's going to be more difficult to get across.

He said when there is slush on the road, vehicles accumulate it along with the salt in all four wheel wells. When you park your vehicle, whether it's in your own driveway or in Wal-Mart's lot, the salt melts the snow and it drops onto the pavement. He said at the Conservation Commission meeting they talked about the amount of salt that Wal-Mart was going to use on their parking

lot. That's not the issue. He asked how much salt is every single car going into the site during a storm going to leave behind as they leave the site.

Mr. Hogan said the present light is six seconds and they average one car leaving Building 19 in that six seconds and one car entering Building 19 in that six seconds. They are being told the time is going to be increased to seven to nine seconds and they are going to get six cars out. He said he doesn't know how that number of cars is going to be able to squeeze out in that time.

He said a point was made that there is a problem with traffic and that Wal-Mart can't solve the traffic. It was implied that Nashua had to solve the problems and quickly. He said he thought they were going to here this complaint many times from the Wal-Mart people if they don't get the traffic problem solved.

Sue Newman, 25 Charlotte Ave. Ms. Newman said she believes last week when traffic studies were being discussed she heard about the potential for the development of some sidewalks in the area that Wal-Mart would construct for pedestrian traffic. She said probably Ald. Larose and she would talk about the 8' wide sidewalk that they have on their street. There is an extra lane of traffic potential on their street so possibly if Amherst Street got backed up they could just shoot down Charlotte Avenue and go on their sidewalk and cut through somehow.

She said she can remember back in 1982 or 1983 being before the Aldermanic Traffic Committee discussing speed control, cars, volume of traffic, etc. The issue of sidewalks came up and the City's position at that time was that they really didn't want to be building any sidewalks because it would be a cost to maintain them. She said whoever and however any sidewalks were built to move pedestrian traffic into a Wal-Mart, she has no idea who would maintain them and to what level they would be maintained. She said this weekend she was walking in the vicinity of St. Christopher's Church. Her 8' sidewalk was somewhat passable in some areas because good citizens on the street had shoveled or snowblown them, but it wasn't de-iced. It was easier to walk in the street. The sidewalk on Manchester Street wasn't done at all. On Monday both the sidewalks were cleared. She said her point is that if there is a Wal-Mart open 24 hours a day, seven days a week, they can't have a pedestrian out there when there is ice and snow that hasn't been removed.

She said she noticed that up by the Building 19 site that there are about twelve curb cuts or entry way and exits from Market Basket up to the Blushing Rose. She said the far right hand lane traveling westbound on 101A is like the slow lane because typically the cars in that lane are going to be going into one of the various shops along the way. This leaves the center two lanes as the main straight through westbound lanes and the existing one left hand turn lane into Building 19. She said it was mentioned last week that two left hand turn lanes into the proposed Wal-Mart would be ideal. She said she supports that, but she doesn't know where they would be able to do it with what exists today.

She said the other night she was in the left turn lane to go into the Building 19 site and two tractor trailer trucks were going in the same direction almost side by side going as fast as they could and there was a small vehicle in the far right hand lane. She said she doesn't have a big car, but if she was driving a larger vehicle she thought it might have been a little frightening. She doesn't know how wide the lanes are here, but she suspected that they are a little narrower than some of the other thoroughfare lanes in the City.

She said she had occasion to visit the Hudson Wal-Mart the other day at 3:00PM and then again between 5:00PM-5:30PM. She said Hudson has two left-turn lanes off of Lowell Road. She said they need those two lanes. It wasn't as evident at 3:00PM, but it was dramatically evident that they were needed at the 5:00PM rush hour coming off Exit 2.

She said the Hudson Wal-Mart has a Police sub station. This is a great idea. She said Nashua would have to figure out if that is how they wish to use their funds as well. She said it is a convenient thing to have so Police calls could be facilitated right there. She said it was mentioned that there were 900 calls to the Amherst Police for the Wal-Mart site already this year. She said Hudson has had something less than that, but the majority of the calls have been shop lifting, theft related motor vehicles, or someone locked their keys in the car.

She said she did not encourage the Board to support a Wal-Mart at the Building 19 location. She said it is a quality of life issue and a traffic issue. She asked the Board to vote "No" if the traffic can't go.

Charles D. Friou, 14 Althea Lane. Mr. Friou said he's been very active in this project in trying to protect the City's wetlands and the quality of life in Nashua.

He said that Paul Johnson will be handing out some material to the Board. He said he isn't going to read the handouts, but would talk in relationship to them.

He said if they look at the Nashua Master Plan one of the things it talks about is to minimize the adverse impact of traffic to the maximum extent practicable. He said Item "J" in that group says "Implement access management techniques to preserve capacity and increase safety in key highway corridors, including Route 101A, Daniel Webster Highway, Route 111, Route 111A and Route 130".

He said the entrance to their condominium at Kensington Ridge is just down the road from where the Broadcaster used to be. Every time there's a tie up anyplace on 111A or 130, it doesn't matter. He said they sit at that exit and wait for long periods for the cars that have diverted the long way around. It's a long way around if you have to use 122 down from Route 101A. He said they are facing a traffic crisis that is greater than 101A in the total west access routes of the City. If you go to the mall at 130 you may be waiting in the ramps to get up around the corner and across the bridge.

He said the plan also states to minimize curb cuts on collector and arterial roads. He said there are fourteen curb cuts across the street in that strip. He said he calls this section the raceway because if you're coming down Amherst Street and you get to the intersection of Somerset Parkway and you're going straight ahead and if you're not careful some fool will not stop at the red light, make a right turn and swing across in front of you to get into the lane for what would be a Wal-Mart in this case. He said it's already a high risk situation.

He said the plan also states that they should ensure adequate on and off site traffic circulation associated with commercial development. He said if you look at some of the old studies that have been done related to the properties along the Amherst Street corridor between the Airport and Route 101A and separate through traffic from local traffic to the maximum extent possible. There is no way to have the maximum extent possible here because they have too limited a space to have the kind of lanes they are told by traffic experts are necessary if even

this section of Amherst Street is to flow after a big store like this is built.

He said one of the questions they have is what happened to the observation by the proponents of the project that the intersections along the street may be rated an "E" or an "F." He said that was something that came up at the Zoning Board last winter in February. He read some of the testimony into the record at follows:

Mr. Jenkins: We got your traffic study. You'd have to be an engineer to read it, but basically if you were to grade the traffic that currently exists on Amherst Street now, how would you grade it?

Mr. McNaughton: There's quite a few deficiencies in letter grades that are pretty common to traffic operations. I think you do see "D's", "E's", and "F's" in that corridor.

Mr. Jenkins: During the peak hours?

Mr. McNaughton: Yes, during peak hours, almost always looking at peak hours.

Mr. Jenkins: So basically you would grade Amherst Street as an "F" currently?

Mr. McNaughton: In certain locations, yes.

Mr. Jenkins: I'm talking about the location primarily in front of Building 19 and into that Saturday.

Mr. McNaughton: In front of Building 19 it's probably an "E/F" on the border.

Mr. Jenkins: And this proposed addition that Wal-Mart is currently planning on doing can improve the road conditions. Do you find that will actually improve the grade of the traffic that currently exists.

Mr. McNaughton: Yes, at the site drive. We do substantial amounts of mitigation that will bring it up into level of service "D."

Mr. Friou said there's been a build out study that's been done of the surrounding areas suggesting that there's going to be a few houses built out that way and that there's going to be a 50%

increase in traffic just from folks who are trying to get from their houses to get to work by coming down their streets in order to get to the highway. This is over a period of years and he supposes that over that time they may get to do the improvements on Amherst Street that are now envisioned as necessary. He said this is something that needs to be factored in. Basically the towns that are in the shopping area will be using the City's roads as they move through to come to Nashua's stores and to come to work in Nashua or to pass through to get to where they work.

Mr. Friou said they also have some questions about the material that was presented by the Wal-Mart proponents. One is the question of the base line of what the accuracy or sufficiency of the base line studies in terms of today. The base line becomes the base for calculating everything in the future. If the base line is underestimated, as they believe it is, then everything else from there on down is all skewed. He said the evidence in the ZBA hearing seemed to be more relevant to the actual situation on the street than were presented last week.

He said there was a decision made by the City in 1986 to build a Fire Station a little west of the Building 19 site. He said it still hasn't been built. The funds still haven't been appropriated. There is a budget crises in the City that's sufficient to having the citizens wanting to do all kinds of things electorally in terms of which Alderman shall sit on the Board and which shall not. They are all upset about their taxes. They have a proposal for a Fire Station, which is needed. In 1986 it was said that this would serve an area that is not currently adequately protected and will provide additional fire apparatus and crews for much needed overall support to existing companies elsewhere in the City. He said if the people out here were not adequately protected in 1986, are they more adequately protected today and are they going to be adequately protected tomorrow. This is a serious matter that hasn't been put before the Board in terms of how quickly and easily the emergency crews, the rescue crews, the Fire Department, etc. can reach the folks who are on the other side of Somerset Parkway.

He said there is a set of questions that he would not read, but hoped the Board would read because he thinks they are the questions the Board has to look at in terms of some of the decisions they are being called upon to make.

Mr. Dookran asked when the Zoning Board meeting, from which he read the minutes, was held.

Mr. Friou said February 22, 2005. This involved the previous plan and was denied. He said the intersections are not involved with the plan. They may be increasingly be adversely affected if the plan goes through because it will increase the traffic. It's the existing extant traffic that goes through there now that causes the "E/F" ratings at those intersections.

He said these traffic studies are often done on the basis of books and formulas. He said he though the biggest store that they proposed is about 4 ½ acres. The way the traffic people do the studies they would come up with a figure of how many cars come and go within a certain period of time, etc. Now they have cut down on the size of the store by an acre and he doesn't know if they have reduced the number of cars. He said he didn't believe it would. He said he thought there would be just as many cars trying to get to Wal-Mart whatever the size of the store is. The store is attractive to a number of people for a variety of reasons. People are easily going to go to Exit 6 and stop at the Christmas Tree Shop and then spin around the corner and stop off at Wal-Mart. He said he thought they would see more traffic than what was projected for the larger store.

Allan Fuller, 70 Arlington Street, Nashua. Mr. Fuller said he is Chairman of the Pennichuck Watershed Council and Secretary to the Airport Authority. He said he has a doctorate in physics and many years experience in analytical chemistry instrumentation. He passed around some material to the Board.

He said there is no valid reason why a Super Wal-Mart should be built where the current Building 19 is located if the Nashua ordinances and Master Plan are properly followed. He said there's no valid reason why this proposal should have ever gotten out of the Planning Department if the rules were followed.

He said he stopped at four Wal-Mart stores, three of them Super Wal-Marts and at Building 19 twice today and did a quick traffic study at each site. He said since the hours of operation will be 24 hrs a day for Wal-Mart versus 9:00AM - 10:00PM for Building 19, the total traffic and pollution loading of the proposed site will be significantly greater. He referred the Board to a table that showed the data.

He said he stopped at Newington, NH. He stopped at Epping, Amherst, and Hudson and counted the total number of cars in each of the parking lots. The first one was at noontime in Newington. He was in Epping about 1:00PM. He went to Building 19 next and did a count there. Then he went to Amherst and counted the cars in the lot. He then went back to Building 19 and counted cars again. Then he went to Hudson. Hudson is not a Super Wal-Mart. He said the lowest number of cars in the parking lot was at Hudson - 418. The highest number was in Amherst - 620 cars in the parking lot. The rate of cars going in and out of the parking lot was relatively high. In Newington it was 420 cars per hour leaving the parking lot. He found out when he was leaving that there was another entrance and exit on the Newington lot so he may not have gotten all the cars going in and out of the lot. The Epping Wal-Mart has one way in and one way out. He counted 500 cars per hour. The Amherst Wal-Mart has two different places where cars can go in and out. He counted 820 cars per hour and that's just one way. That means there are 1600 cars per hour going in and out of this facility. He said Hudson has an average of 620 cars going in and average going out 1200 cars per hour going in and out of that site. He said Building 19 had 92 cars in the lot with 140 cars per hour going in and 140 cars going out. He came back after being at the Amherst store about 3:00PM and did another count at Building 19. There were 71 cars in the parking lot with 120 cars going in and 120 cars going out. The ratio of the Wal-Mart parking, if you average the four different stores is five or six times the traffic loading that's at Building 19 right now.

Mr. Fuller said suspended solids will increase beyond what is currently happening. He said the Wal-Mart consultant has said that pollution will be less after development than before, even with a 400% increase in cars. He said the reality is that it's more than a 400% increase. He said they are talking about a 500% or 600% increase so the numbers that Board has to work with as far as the traffic count is concerned is not right.

He said the Vortech systems are 80% efficient at best, really less since they will be installed with less distance from the bottom of the Vortech unit to the water table. He said the manufacturer recommends a certain distance and the water table on site is too high for that to even take place. He said 20% of 400% is 80% increase in suspended solids. He said the Wal-Mart people are stating that there will be less solids now with the new proposal than what currently exists. The technical experts from Wal-Mart are incorrect. He said the figure isn't 400% either - they are talking 500% - 600% and 24 hours a day.

Mr. Fuller said the total water soluble organics - gasoline, anti-freeze, oil, spilled herbicides, insecticides, fertilizers, etc. and inorganic compounds such as road salts, oxides of metals, zinc, copper, etc. will end up in the brooks and in the City's drinking water supply. He said the amount of road salt that will fall off cars will be staggering. He commented that Wal-Mart's snow banks are black. The Building 19 snow banks are pristine white. This shows the difference in the chemical loading associated with the sites.

He said none of this is an explicit concern of the Water Protection District ordinance. There is one reference to soluble pollutants. He read this to the Board as follows:

"The district also places limits on the use of fertilizers/pesticides within 250' of pertinent water bodies".

He said there will be fertilizers and pesticides and other toxic chemicals sold at Wal-Mart. There will be spills from time to time of these chemicals because someone is going to drop a bag. Common sense says that these and other chemicals should not be allowed. This condition is not needed to turn down the proposal.

Mr. Fuller said the Citizens Group - Paul Johnson and others - collected samples at Building 19 and the Wal-Mart stores in Amherst and Salem this Columbus Day weekend. The results for total petroleum hydrocarbons (THP) show that Building 19 runoff is below the detection limits using EPA method 8015B. The testing was done by an EPA certified lab, Chem Serve, in Milford. The results in the Amherst Wal-Mart were 30,000 parts per million. This is gasoline type materials. The results at the Salem Wal-Mart were 15,000 parts per million. There is more pollution coming off the two Wal-Mart sites than what's coming from Building 19.

He said there are two different things that take place with cars and traffic. The amount of salt is going to be proportional to the number of cars that are going to be on the site. If there are 1,000 cars than it will be 1,000 times the amount with just one car. Then there is the situation where you have a car or two that have a catastrophic event such as an automobile accident. Radiators break. Anti-freeze falls. There may be a car where the gas tank is leaking or there could be an accident where the gas will spill. Those catastrophic events produce lots of pollution. The more cars there are, the more chance there is of having a catastrophic event take place.

Mr. Fuller said these results are not abstract modeling results. These are real life results for gasoline and oil related pollution running off two Super Wal-Mart stores. The two Wal-Mart sites have many times more pollution associated with petroleum products, much higher than the increased car traffic would suggest, in part because the samples were collected just at the beginning of a rain event at all three sites. He said the results represent all the pollution deposited on the pavement over a number of days at all three sites. He asked if the Nashua Planning Department really believes that the pollution after Wal-Mart will be less than what is currently at Building 19 or believe that some theoretical modeling program.

He said the traffic at Super Wal-Mart will destroy the bad flow already on Amherst Street. There's a Lowe's being built in Amherst that will increase the traffic beyond what Amherst Street is now. There are some smaller developments taking place also. Growth estimates suggest that the area west of Nashua will grow greater than 50% in the future. This will increase traffic on Amherst Street even more. Traffic into the proposed Super Wal-Mart site (now Building 19) is estimated to increase by 400%. Soon there will be a 400% increase of cars and trucks going into the site and there will be more turns going right coming out of the Super Wal-Mart going east and then almost immediately crossing lanes to turn left into Somerset Parkway to get to Exit 8 on the Everett Turnpike. This will produce gridlock going East on Amherst Street. A large percentage of the traffic exiting Everett Turnpike at Exit 8 going down Somerset Parkway to Amherst Street turns right and in a short distance (100') the traffic wanting to go to the Super Wal-Mart must cross lanes of west bound traffic to get into the left lane. This will also cause gridlock going west on Amherst Street. This is a major problem. There is nothing one can do to increase the number of lanes will solve this problem. The one solution is not to allow the Super Wal-Mart to be built here.

He said at the last meeting there was a graph and it was stated that Amherst Street is a "B" and a "C." He said it was brought out clearly from Zoning Board information that it was really more of a "D", "E", or "F" and it's going to get worse when you add more traffic.

Mr. Fuller said the plan should be killed for traffic considerations alone. The plan is inconsistent with the goals, objections, and strategies of the City's Master Plan and Section 16-123 (b) and other Nashua ordinances. He said what amazes him

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is how hard the Planning Department is working so hard to support this when there are plenty of ordinances that could be used to turn it down.

He said the plan could or should be turned down for the following reasons:

The pollution loading of the water supply, violating the letter and intent of the Water Supply District

Produce traffic gridlock on Amherst Street

The real test data for pollution runoff at two Super Wal-Mart stores demonstrates there will be more pollution because there will be more cars

Total solids in the runoff will increase by more than 80% because of the increase in total traffic in and out of the site

The current pond system requires the water runoff from the parking lots to flow into the pond system between Amherst Street and Building 19 and then the water must pass through a soil filter (that is what that berm is) as it leaves the site, far better filter than the Vortech system

The plan does not provide for adequate provisions for pedestrian traffic, it's impact on traffic flow on Amherst Street and the neighboring streets when people use the "walk" light to cross Amherst Street

Mr. Fuller said there has been a comment that's been made that there is a man made ponds between Amherst Street and Building 19 and therefore it doesn't count. There are other man made ponds that do count all the way down Boire Brook. The drinking water ponds are all man made and they're dammed up higher and wider than what they would be if they were natural. He said he didn't think the fact that these are man made ponds should be any reason they should be discounted.

He said the Water Supply District describes the ponds by Amherst Street and all the other waters. He read the following from the Master Plan: In 1998 the City enacted a Water Supply Protection Overlay District. The purpose of this Overlay District is to increase the protection of Pennichuck Brook Watershed above the supply pond dam, including Pennichuck Brook and its associated ponds, wetlands and tributaries, said water being the primary source of the City's water supply.

He said this basically defines almost any water that's there is part of the Water Supply District and to try to discount it because it's not on the map doesn't make any sense.

Mr. Fuller said the Board should be denying the request. To do anything else is not being true to the citizens of Nashua, who don't want this to take place. This should be a building site with low traffic impact. With low traffic impact they could put almost anything in there. The problem is the traffic and the cars and the loading associated with the traffic.

Mr. Dufour said he took offense to the comment Mr. Fuller made about how he was amazed at how hard the Planning Department is working to support this. He said he's been sitting on the Board for ten years and they've never supported one thing one way or another. They bring the Board the information and the Board makes the decision.

Mr. Dookran asked Mr. Fuller if he had any idea of the percentage of water the stream that's between Amherst Street and Building 19 contributes to the watershed.

Mr. Fuller said he didn't know, but they could do an analysis. He asked if it was a small percentage if it should be discounted.

Mr. Dookran said depending on what the percent is, it will make a difference to his opinion about what the effect is on the watershed.

Mr. Fuller said he has photographs and there is video available that shows that pond is being filled by water from a brook that flows pretty nicely in the springtime. He said he has looked at both Boire Brook and this other brook and he would guess that the other brook is 30%-40% of the size of Boire Brook. If Boire Brook is important, then he would say that the other brook is 30% as important as Boire Brook.

Mr. Dookran said according to the report from the testing that was performed at Chem Serve, there is 30,000 parts per million for hydrocarbons. He asked if that was by volume or by weight.

Mr. Fuller said it doesn't make much difference if it's by volume or weight. It may be a small percentage difference.

Mr. Dookran said Mr. Fuller reported quite a number of cars leaving and entering the sites. He asked what Mr. Fuller's

opinion is with regard to the impact the traffic has on the roadway going to and from the site.

Mr. Fuller said the average from the Hudson store and the Amherst store is 700 cars one way or 1400 cars per hour increased load going in and out of the Wal-Mart. The question is what impact 1400 cars per hour would have on the traffic flow going in and out of the site and what impact it has on Amherst Street. He said he thinks it has a significant impact, so much so that the Board should deny the request.

Mr. Dookran asked if Mr. Fuller saw any traffic problems on the streets at the time he did his counts.

Mr. Fuller said he did not, but the roads are bigger at those sites and it was 3:00P.M. He said he imagines Amherst Street is almost gridlocked as it now so if you throw in another 1600 vehicles per hour and what would happen then. He said he thinks it's a problem.

Mr. Farkas again reminded Mr. Fuller that the Planning Staff stays objective. He said this because of Mr. Fuller's earlier remarks in response to Mr. Dufour's comments.

Mr. Fuller asked why nobody challenged the traffic data when it was presented and said it was a "B" and a "C."

Mr. Farkas said that is up to the Board.

At this point Mrs. Lasky asked Dr. Roseen to come forward to answer a question.

Mr. Dookran said that it appears that Dr. Roseen had an explanation to the question he asked about the 30,000 parts per million.

Dr. Robert Roseen, University of New Hampshire. Dr. Roseen said 30,000 parts per million is a mass per volume. It's also milligrams per litre.

Mr. Dookran said to him 30,000 parts per million is 3%. He said this is pretty high.

Dr. Roseen said it's extremely high. From a drinking water standpoint one part per 300,000 gasoline to water makes it undrinkable.

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Mr. Dookran asked if parts per million the right way of stating this.

Dr. Roseen said milligrams per litre.

Mr. Dookran asked if this is different from parts per million.

Dr. Roseen said it's not. He said milligrams per litre and parts per million are the same and are often presented interchangeably.

Mrs. Lasky asked if Mr. Dookran is asking about the third paragraph of Mr. Fuller's report about the collected samples done on Columbus Day weekend.

Dr. Roseen said this is correct.

Mrs. Lasky asked to put this in layman's terms.

Dr. Roseen said that 30,000 parts per million refers to 30,000 milligrams per liter of total petroleum hydrocarbons. He said one part gasoline per 300,000 parts water makes water undrinkable. This is a very high concentration - one that is eventually running to your drinking water supply.

Mrs. Lasky asked Dr. Roseen if he is familiar with this study.

Dr. Roseen said he did see the results of the samples. He said they were samples that were taken that represent a first flush. That's what washes off of the parking lot following an initial rain.

Mrs. Lasky asked the relevancy of what's going on at the Amherst Wal-Mart to what might happen at a Nashua Wal-Mart and what's going on at the Salem Wal-Mart that might happen here.

Dr. Roseen said it has to do with comparable traffic loads and you would expect to see a comparable concentration of contaminants - in this case petroleum hydrocarbons flowing off of the parking lot. This represents what's going into the treatment system. It's an example of the loading that the parking lot itself is seeing from all the cars.

Mrs. Lasky asked if he would know what accounts for the difference between the Amherst Wal-Mart and the Salem Wal-Mart. She is assuming that they are about the same size store.

Dr. Roseen said he didn't know. He said he could hypothesize and say that there's a whole lot of factors that affect variability. One of them might be traffic. Another might be the time of the sample.

Mrs. Lasky said the bottom line is that there are a lot of variables and she didn't see how that is related to what might or might not happen.

Dr. Roseen said it's incredibly related. Even if they were speaking orders of magnitude they are speaking about magnitudes in the tens of thousands of range. It's an awful lot. At UNH they see an average concentration of roughly 700, maybe 1,000 parts per million in the first flush, substantially less. It has everything to do with the traffic volume and is very relevant.

Mr. Moran said he's been through a Manchester Water Works and he assumes that Pennichuck is about the same. He asked if it isn't true that they have sophisticated systems that would take care of these problems before the drinking water comes out in their faucets.

Dr. Roseen said he doesn't really know the answer to this question.

Mr. Moran said the implication is that the drinking water that they are drinking has problems when he doesn't believe that Pennichuck or any other water system would allow these things to be passed through to the consumer.

Dr. Roseen said he couldn't really answer what happens at the drinking water supply end of it. He isn't familiar with that, but protecting the water supply would be an important aspect. He said these type of contaminants should be a concern from the standpoint that non point source pollution in the form of storm water is the number one contaminant to the nation's waters.

Mr. Moran asked if Dr. Roseen saying that if Wal-Mart is in this site that the water that he drinks is going to be bad.

Dr. Roseen said it will contribute to the degradation of the water quality. The level of measure that they are asking for is well beyond any of the level of study that's been done here. He said you basically have to analyze the amounts of water in relative components. He said it's something that could be done. He re-iterated that non point source pollution in the form of

storm water is the number one contaminant and threat to the nation's waters. What they are seeing with this site in terms of storm water treatment is nothing special. He said they should be demanding a higher standards. The higher standard, in terms of treatment devices, are not being applied. He said there are a whole range of systems that exist in storm water manuals that are not considered here that are far more effective.

Mr. Dufour said his understanding is that the water flows off of the parking lot and then goes through the Vortech filtration system and then goes through replicated wetlands and then it travels 1 ¼ miles downstream to the Pennichuck Ponds. He asked how that affects the water quality.

Dr. Roseen said he has reviewed the manual for the P8 model that the applicant has used. It shows that the type of system they are considering using is essentially an extended detention pond. He said the removal efficiency for this system is not substantially different from the existing system that is right now (the retention pond). If they aren't improving the removal efficiency from the existing system to the proposed system and increase the loading by 400% or 600%, the entire loading to the water supply is going to increase dramatically.

Mr. Farkas asked Dr. Roseen if he considered the effect of the Vortech system and then the replicated wetlands, that even his website states are the best to filter these types of things out.

Dr. Roseen said that is an extremely different type of wetland system that they are evaluating. It's a sub surface gravel wetland and has very good removal efficiency. What they are seeing right now is a little bit of a misnomer depending upon how you want to qualify it. He said he might qualify it more as an extended detention pond rather than a wetlands system.

He said in terms of his modeling effort, he did not use a P8 model. He did a simple evaluation based on removal efficiencies and anticipated rainfall runoff for the site. It's not terribly different than what goes into the P8 model. His report was based on a range of things, which considered that they don't necessarily know the removal efficiencies of these particular systems. If you pose a variety of conditions such as a 0%, 25%, & 75% removal, these are the types of loading characteristics you would get. Given those conditions they still found there was a substantial amount of loading. He said the reason why he chose that approach is that within the storm water community

there is a tremendous amount of debate as to the efficiency of these systems. He said the same model that the applicant is using sites a gentleman known as Tom Schuller. He said Tom Schuller is the same person he is getting his data from on the 80% removal efficiency and the 70% removal efficiency. He said the experts in this business are not taking some of these removal efficiencies as gospel.

Mary Ellen Martin, 5 Lonestar Drive, Nashua. Ms. Martin said she has been a State representative for Nashua for the past fourteen years. She said during that time she has dealt very significantly with the Resources, Recreation & Development Committee, which deals with all the water resources and issues throughout the State.

She said during the first quarter of the twentieth century the need for some type of zoning controls became apparent, resulting in the adoption of zoning laws in New Hampshire. She said in the second quarter of the twentieth century the need for controls for the platting on land became apparent and by mid century nearly every State, including New Hampshire, had subdivision controls. It was not until late in the third quarter of the twentieth century that there was a serious recognition of the value of wetlands in an attempt to regulate the filling of them and the destruction of them. During the nineteenth and much of the twentieth century wetlands were considered to be wasted land. Programs were developed which were designed to reclaim these swamplands from nature. She said the State's own **RSA 431**, entitled, Improvement of Swamplands, was not repealed until 1979. As a result of the encouragement of the filling of wetlands and the lack of understanding of their value, the U.S. Fish & Wildlife Service estimates that more than half of the wetlands in the whole continental United States were destroyed in the first two centuries of this country's history.

She said the site in question was a primary wetland, which should have never been developed. In 1982 the Superior Court case, which overturned the ZBA's denial states: "The Master finds that the subject property is uniquely affected by water to a substantially greater extent than other properties in the district. The subject property is the last major undeveloped tract of land on the westerly side of Amherst Street."

Rep. Martin said that in 1982 this piece of land was a swamp. Nevertheless, the Kealy Farms project went forward with fill and build. It has morphed into several other incarnations along the

way. At this point reclamation is out of the question, but the donation of two other parcels of land by this applicant does not mitigate further fill and damage to this site, nor the added pollution discharges directly into a tributary to the City's water supply. She said no matter how they look at this, it interrupts a system and wetlands are a system, which if they are smart enough to let it work the way nature intended it to work, is cost free and effective.

She said the original approval of the Kealey Farms project was also represented to be largely an agricultural undertaking. There was supposed to be a greenhouse that they were going to build where they would grow produce and then sell. There was also going to be a big garden plot outside of the greenhouse where they were going to grow produce. There was supposed to be incidental or peripheral retail activity. The approval also restricted to a minimal impact use on that site. She said the approval before the Board now seems to broach a maximum impact for that site.

She said she feels it's necessary to mention the concepts behind the land use policies. In the interest of fostering local control and in recognition of the interest and the expertise of those more intimately familiar with an area, the approval system was set up to be a two-tiered system. The review and approval of the Conservation Commission, Zoning Board of Adjustment and the Planning Board constitute the first filter. The State relies on their assessment of all the local factors that may come into play. She said each of the three bodies in this first filter has their own set of criteria to assess, discuss, and reach conclusions about. She said the second filter of approvals and permits at the State level looks at effects and impacts State-wide. They do not review the same criteria that the local bodies do. Therefore, the local decision(s) are critical and relied upon. She said the concept was for the first filter to be completed before the second filter begins. They did not specifically State in law that it must be so, so as a result of time pressures at every level, the two reviews are often moving in tandem. However, the State always issues its' permits with the pre-conceived determination and relying upon the fact that the three approvals from the local level will be sent up.

She said when an appellant comes before the Board and states that they already have one or another various permits from the State or DES it should mean absolutely nothing to them in the way of influencing the Board's review, their considerations, and

their decision. The State is not looking at the same things the Board is looking at.

Rep. Martin said all involved agree that this is an extremely sensitive site with significant potential impact for the City. She said if the Board believes the applicant's numbers regarding traffic and water impacts and if those scenarios are wrong, than all future liability rests on the taxpayers' wallets.

She said Wal-Mart's track record after they got what they wanted has been mentioned. If the Board is going to go forward with this, maybe there should be more than the normal stipulations considered. For example, would they (Wal-Mart) be willing to agree to compensate for additional Police costs, should they be incurred once their business is in place. They should be required to maintain the ponds and the wetlands and that requirement to maintain them goes with the property should it ever be sold. She said they should require more extensive and extensive water testing to monitor pollution.

She said she trusted that the Board's review of the proposal in conjunction with Nashua's ordinances and with the Master Plan will evidence that the proposal both in the intent and the letter of the law is not worthy of the Board's support. She said it was stated at one point during the testimony that the State is the governing authority. She said that is true. The State is the governing authority in everything. The only thing they get to do at the local level is what they deign to delegate.

She said Mr. Moran had asked a question about the drinking water having problems and whether Wal-Mart was going to contribute to bad water.

Rep. Martin said it will contribute to bad water. When you talk about non point source pollution, that means pollution that comes into the water system from a source that they can't pinpoint. They can't say that it's coming out of a certain factory or a certain plant. It is the number one contaminant of their water. Phase II of the Clean Water Act is going to be coming in with more stringent requirements as far as cleaning the water. When you clean the water in the first place you may get out some bad gunk, but you're also living with some chemical residues.

She said the Clean Water Act, after being in effect for twenty years is now moving the bar higher and everyone is going to have

to start making their water even cleaner, which is all the more reason why they should maintain the supplies that they have in as pristine a situation as possible. She said the City's water company is going to have to upgrade the treatment that they do. In the next five years the cleanliness of the water in water sources are going to become immanently important to everyone because of the expenses to make it cleaner.

Mr. Lowe asked when Phase II would go into effect.

Dr. Robert Roseen. Dr. Roseen said Phase II began in 2003. Full implementation is expected by the EPA in 2008. Towns and municipalities are expected to deliver reports on an annual basis so the first reports would have gone in already.

Cynthia Overby, 520 Broad Street. Mrs. Overby said this proposed project has been many years in the making. She said she had concerns about the development on the property from the very beginning. Her concerns are with any development on this site, having nothing to do with Wal-Mart.

She said the topography of the site tells you that this is a huge wet area with the upland on the other side of Amherst Street. The large pond on the site is a "dig out", but it has an undisturbed wetland to the left of it and contains many wetland plant species. She said this tells her that this site has been wet since before the development of this property. She said this pond is not only fed by surface water, but it's bubbling up from beneath. It is a very wet and sensitive site. The original owners recognized this and put development restrictions on it. With each proposed development these restrictions were ignored and the site has been overdeveloped already.

She said she did a species study on this site with Ralph Andrews, a member of the Audubon Society. There are many birds, amphibians, and mammals that call this property home. It has been a desired breeding site because of its resources from many local and migrating birds. There are turtles, salamanders, and fish. Beavers also call this site home. In fact, many mammals have been spotted. These are desired breeding grounds and are sought by birds and water fowl annually.

She said at the present time Building 19 is not intrusive and does not pose a threat to these species. Wal-Mart's original plan was very invasive and the new plan is more habitat friendly, although any new development will disturb the tranquility of the site and damage this sensitive area.

She said she's sure the Vortex units are a wonderful technology for filtering pollutants, but her concerns are with the maintenance that they require and what the result would be if they weren't maintained. On any other development the Vortex units would be accepted, but on this site they are too close to the aquifer. She said her feeling is to let nature have it's way here. Nature has been filtering pollutants through wetlands for centuries and will continue to do so if man acquires respect for nature and just leaves nature alone.

Ms. Overby said she travels Amherst Street every day to get to work. She is concerned about traffic. She travels in both directions and at any time of the day you could be stuck in a traffic jam, especially heading towards Main Street. If there is a backup there is no side road to escape to. Amherst Street is a main artery. If she had a sick child or needed to be somewhere she would have no way to guarantee that she would arrive in a timely fashion. Amherst Street already has a failing grade.

She said putting Wal-Mart into this site would be a grave mistake, not just for traffic and environmental reasons, but because it is an aggressive competitor and would put any locals out of business. This is not just another property up for development, it is unique. Wal-Mart is wrong for this site. She said it's up to the Board to recognize this and not pass this development. A less invasive business is needed on this property. She asked the Board to take their time to make their decision; any mistake could not be undone.

Mr. Dookran asked Mrs. Overby what pond she was referring to in her testimony.

Mrs. Overby pointed out the wetland that had wetland plant species that had not been disturbed. She said there are some borings in the ground.

Mr. Dookran asked Mrs. Overby how the proposed plan would affect the habitat.

Mrs. Overby said the habitat is a sensitive area. She pointed out the whole side of the property that is used by migrating and local birds. It's sought after annually. She said when a species finds a good nesting ground for breeding and bringing up their young they will return annually. If they find that the site is undesirable they will stop coming.

Mr. Dookran asked if Ms. Overby has traveled beyond here towards Boire Brook as it heads toward Pennichuck Brook.

Ms. Overby said she's seen maps.

Mr. Dookran said he's looked at some of it. He said there is no vegetation alongside the brook. At some point it crosses Amherst Street and falls alongside Somerset Parkway. He said they've had a lot of discussion of what will be done to the brook at this site, but what's happening to the water supply along the rest of the way. If they are to take a look at what's happening are they creating too much of a big deal at this site.

Ms. Overby said she is probably not the expert that they are looking for. She said in her personal opinion each and every tributary is important and the system that they follow should be secured in such a fashion that pollutants are probably, for lack of a better word, separated from the site. She said when you look at other sites that have a reservoir there are restrictions on it. She said they should look at all their tributaries and take note and keep pollution out of them.

Barbara Pressly, 11 Orchard Avenue. Mrs. Pressly said this has been a project that has been around for three years. The City has given every single appropriate courtesy to this applicant, as she would hope they would do with every applicant. She said she thinks the applicant has tried their very best to respond to every question and suggestion that different Boards have made to try to make this project work. She said no matter what the outcome is everyone should be proud that the applicant for this project has been given a very fair shake and they have responded most appropriately.

She said there was a reference to what took place on February 22, 2005. That was the Zoning Board hearing where this project was considered. If you take some of the language from their decision, it was a unanimous "no" for the various reasons. One of them was traffic congestion. The minutes state that they rated it a level "F." The other reason for denial was the inherent environmental limitations. It was denied because it was not in the public interest and also because it lacked reasonableness.

She said these are the four reasons that this project, a little bit larger but basically the same project, was turned down by the Zoning Board. Now it is before the Planning Board, for reasons she doesn't understand, the Zoning Board has not been

allowed to deal with those four critical issues. From what she does understand, the decision on this project, which usually rests with the Zoning Board, rests with the Planning Board instead.

Mrs. Lasky said this isn't the case. She said the Zoning Board issues are Zoning Board issues. They have dealt with them or will deal with them in the manner in which they usually do business. She said this Board is here to look at the site plan as well as a subdivision plan. She said they have talked with Corporation Council and have been told that they could deal with this in accordance with their rules and regulations. Should something happen anywhere along the way with a court case, it all becomes moot.

Mrs. Pressly said she attended the most recent Zoning Board meeting and they were forbidden to talk about the environment and traffic. From her perspective the Planning Board will be the first Board to be looking at traffic. She said the Zoning Board has looked at traffic in the past, but they did not do so at their last meeting.

Mrs. Lasky said traffic issues are within the Planning Board's purview. She said that's the reason they have been listening to all the testimony about traffic.

Mrs. Pressly said she believes the decision does rest with the Planning Board and that they are going to hear many differing opinions. She said ironically the only opinion that seems to be held by both sides is that the traffic is going to be terrible.

She asked the Board to consider using the most appropriate measure of how to make a decision. It's the average person's perspective and it's called common sense. She said she hoped that the Board would use common sense to decide that the traffic will be too horrendous for the community to support and deny the project.

Daniel Richardson. Did not come forward to speak.

Jennifer Craffey. Did not come forward to speak.

Geoff Daly, 48 Walden Pond Drive, Nashua. Mr. Daly said he also has a business at 4 Townsend West. Basically, his statement is against the Planning Board's approval to replace Building 19's, 86,000 square foot existing building with Wal-Mart's requested

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141,000 square foot facility repositioned on the 420 Amherst Street site.

He said this proposal is deeply flawed in one major area that has not been addressed by either Wal-Mart engineers or Atty. Prunier.

He said this involves the replacement of an existing 86,000 square foot building with a floor design load of 100 pounds per square foot, which equals eight million six hundred thousand pounds floor load less the building structure. The existing building pressure hydraulic into the surrounding surface is known and has not significantly affected the surrounding drainage dendrites as observed over many years. The current footprint results in a softer ground plume dome pressure on the drainage areas surrounding the existing building. He said they should note that the whole site is made of backfilled soil into an original wetlands area, which was confirmed tonight. It was approved many years ago prior to the current Wetlands Act, which are more restrictive. As mandated by both Federal and Building codes the foundations under the floor areas were compacted to allow a floor structure suitable for a hundred pound square foot load.

He said Wal-Mart now wishes to tear down this structure and pave it over with parking, thus increasing the impervious area on the site. With the above mentioned area now used for parking, Wal-Mart wants to move in a westerly direction over an existing open area, to date not built upon, of absorbing soil structure. This westerly movement moves the epicenter for the building site pressure hydraulics plume dome into a new area nearer existing wetlands abutting 4 Townsend West, New Hampshire Employment Security, Goddard School, as well as near the Airport runway. He said the City of Nashua has a funded request of nearly fifteen million dollars for a main runway expansion and repositioning towards the northerly side of the Airport as well as other upgrades.

Mr. Daly said the proposed new building of 141,000 square feet will apply if using the same floor load criteria of the existing Building 19 - fourteen million one hundred thousand pounds floor load less the building structure. This means there is an increase of nearly 40% over the existing site load. By moving the building in the westerly direction the new epicenter of the pressure hydraulic plume dome will push all ground water dendrites over a much larger surrounding area.

He asked what design criteria Wal-Mart has used for their footings and floor foundations, knowing that an existing compacted, but demolished foundation is being extended. He said this would, no doubt, affect the total site ground water dendrites by adding this 141,000 square foot building.

He said Wal-Mart needs to assure the City of Nashua in writing, with appropriate design calculations that the planned Nashua Airport runway expansion will not be impacted now or in the future due to the moving of the pressure hydraulic plume dome affecting the ground dendrites to a larger footprint than now exists.

He said Dr. Roseen previously testified that the impervious surface is being doubled. When you add this to the increased pressure hydraulic plume dome to the site, the dendritic flow is pushed outwards, especially towards the new Airport runway, 4 Townsend West, New Hampshire Employment, and Goddard School. The net result will be more water being backed up into the surrounding existing wetlands in and around Boire Brook.

He said if Wal-Mart prevails in their proposal, he suggested that they post a fifteen million dollar bond for twenty-five years and engage a company such as Clean Harbors to clean and maintain all drainage retention systems coupled with any repair construction costs affecting a repair to the Nashua Airport runway due to a proven change in the pressure hydraulics plume dome and the dendrites moved out beyond a designated point to be provided by Wal-Mart engineers and Atty. Prunier, with the Planning Board approving and accepting the designated point along with calculations.

He said if any of the above is not proven beyond a doubt, this Board must not approve Wal-Mart's application for this site. The future cost to the City to rectify water damage to the Airport runway and surrounding areas of Boire Brook will be intolerable and unacceptable to the City taxpayers.

Mrs. Lasky asked where he got the fifteen million dollar bond figure.

Mr. Daly said this is money that has been talked about for a number of years for the Airport expansion of the runway, the re-siting of various other runways around it. The runway will be physically moved in a northerly direction, which will be towards the proposed Wal-Mart. He said over a period of time the

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Federal Government will provide about 90%-95% of that and the City will provide about 2 ½% of that.

Mrs. Lasky asked if the figure is meant to be for mitigation for damage to the runway.

Mr. Daly said it is. He said that Federal Aviation has very specific design criteria for runways. If the water plume is moved out towards that runway, the cost is going to go up and damage can occur.

Mrs. Lasky asked what Mr. Daly's occupation is.

Mr. Daly said he is an electro mechanical engineer with thirty-nine years experience in the industry. He said he built manufacturing plants where they have had to put in extremely heavy equipment so he is quite familiar with ground soil substructures.

Mr. Dookran asked Mr. Daly's opinion on whether the proposed runway expansion is more detrimental to the ground water than the proposed Wal-Mart.

Mr. Daly said "no". The load bearing of a runway is spread out over a much larger area. Also, the runoff is not anywhere near what they will be seeing at Wal-Mart.

He said as a business owner at 4 Townsend West, they were actually negotiating for the property where the Goddard School and the N.H. Employment facility now stand. It is a total of nine acres. He said they were told that out of that nine acres, just about five acres was occupiable. They were going to put a 17,500 square foot manufacturing facility on it. Today that site is occupied to the total area of seven acres. That has also changed the flow characteristics of the wetlands within that area. Now you add in the Wal-Mart pressure dome, which is now being moved west along with the current pressure dome from Building 19, you're pushing all the water elsewhere and it will go out underneath the runway.

Mr. Dufour asked Dr. Roseen if the testimony that Mr. Daly had just given made any sense to him.

Dr. Roseen said it does. He said it sounded like Mr. Daly knows a whole lot more about loading from the geotechnical standpoint than he does. He said he is familiar with ground water flow and certainly the loading pressure will affect ground water flow

from the standpoint of the amount of porous spaces that exist and the ability of water to flow through the ground. He said he really doesn't know the degree to which this will affect ground water flow, other than to say wetland substrate is very soft and very compressible.

Atty. Jed Callen, Baldwin, Callen & Ransom. Atty. Callen said he represents a number of abutters. He said he understood from the meeting last week that this Board wanted their traffic expert, William Scully, to present his findings with some more detail and with his data. He said he has copies of his report and they would like to have him present that if that's helpful.

Mr. Farkas said that last week Atty. Callen was upset because he didn't have the TID report. He asked if he has it now.

Atty. Callen said he thought he had brought it, but instead of bringing the whole case he excerpted in the letter he sent to the Board.

He said Atty. Prunier has just handed him what appears to be a photocopy of the TID case. He said he agrees that it is, in fact, a copy of the TID case. He has submitted it into the record.

Mr. Dufour said at some point early morning Atty. Callen's traffic engineer faxed what looked like a summation of what he talked about the last time to the Planning Department. He asked if this is what is a new report that he was going to present to the Board tonight.

Atty. Callen said he can't speak to what he faxed to the Planning Department, but what he understands he did is that at his request late yesterday he faxed what he had at that point because he told Mr. Scully it would be extremely helpful for the Board to have it a day early if they wanted to read it. He said he's brought the very final now. He said they are in front of him in a form that is essentially identical to what he faxed, but has the appendices and isn't smudged by having run through a fax machine. It's 99 ½% exactly the same as what was faxed.

Mrs. Lasky said the Planning Department received the fax this morning. Some of the members happened to be on a site walk this morning were in the office and were able to read it, but some were not privy to that and did not receive it until tonight. She said she specifically asked (not that they won't accept what is

being submitted) that this be in their hands in enough time to read and digest it and it was not.

Atty. Callen passed out the information from Mr. Scully to the Board.

William Scully, MS Transportation Systems. Mr. Scully said the memorandum summarizes what he presented last week, but with more detail in terms of the back up and background that were the basis for his comments. He has included summaries of information related to some of the comments as well as some details in terms of traffic operations analysis.

He said one of the first things they looked at was the base condition. He referred them to Page 2 and 3 where they talk about some of that information. The data that was collected by Vanesse was done during different times in June 2005, the week of July 4<sup>th</sup>, and some data collected in August. There was a review of various adjustment factors from some count stations and then they made adjustments to that data.

He said they compared it to data that had been collected by McMann Associates in June 2003. They compared base networks as well as data itself. He said they found that the June 2003 data was for the heavy movements on 101A - the through movements, some of the turn movements onto and off of Somerset Parkway were substantially higher in 2003 than the data that was collected in 2005. In comparing the base networks between the original study by McMann to the current study they found the same thing. He said he has copies of the existing base networks in the memo with handwritten numbers that are from the previous study so they can see what he is talking about.

He said in some cases the number differences aren't that big a deal, but in a lot of cases if they look at the differences they are talking on the order of some 200-300 or so vehicles difference at intersections they focused on last week - the intersection at the Wal-Mart proposed drive and Somerset Parkway. They also looked at the Townsend intersection as part of the network to try to verify conditions that were being presented.

He said the McMann data and the McMann base numbers were called into question by the Regional Planning Commission and the City's consultant at the time.

He said the concern is that if they're seeing differences in the 10-15% range it is potentially significant enough to alter the analysis results to some degree. Starting out with a lower base number and then building upon it, they are adding to that error. If they're adding 1.5% for ten years onto something that's potentially 100-300 vehicles low in major movements, you are understating that increase over that ten year period.

He said they did run some tests to see what happens if 150 more vehicles per direction is flowing through the intersections or a couple hundred more vehicles are coming off of Somerset Parkway.

Mr. Farkas asked if they did actual counts or if they did this on a computer simulation.

Mr. Scully said he did not do actual counts. The analysis was a computer simulation. He said McMann did actual counts. He said they also compared that with Regional Planning Commission's counts from the 2001 study, which became the basis for the 101A plan. In late 2003 or early 2004 the McMann data was called into question because it was lower than the 101 study in 2001.

Mrs. Lasky said this Board hasn't had anything submitted to it by McMann Associates.

Mr. Scully he isn't saying that the Board has reviewed the McMann 2003 study. He is saying that there is a substantial amount of data on 101A that's been collected by whomever. He doesn't know the reason why in 2005 they are seeing a volume decrease on 101A in this particular area of roughly 10% over a couple of years period. He said his concern is that if you start with a significantly lower base then what are they really assessing down the road. The 2003 numbers didn't include the Target project. The 2005 numbers should have included the Target project.

He said as they started looking at the information it became a concern because where Somerset Parkway comes into 101A is a critical point. He said if the Board approves this project they can key into what would they have the applicant do to solve the problem. If they are understating conditions now is the time to know.

Mrs. Lasky asked how much higher the percentage on the baseline is between the McMann report and the applicant's report.

Mr. Scully said he went to the key spots. As he states on Page 3 of his report, for the most part there was a greater than 10% difference. He said 2005 was greater than 10% or more lower than 2003.

He said the question came up last week if the applicant should be looking at the Christmas season or not. He said it is looked at in some cases he mentioned. He said last week they heard the applicant's consultant indicate that the Christmas season could generate somewhere on the order of 46% more traffic than off Christmas season.

He referred to an exhibit. He said on the left hand side he has listed the weekday PM peak hour, Saturday/Sunday mid day peak. He said it's all ITE based information. He said he hasn't gone out to other superstores to count to see if they are higher or not. He said under average he has shown the numbers that were in the Vanesse report - on the weekday 7,268, 572 peak and Saturday 8,492, 740 mid day peak. The new trips are just the net new on the road taking into account the pass by traffic.

He said based on ITE data compilation they see Christmas season being about 42% higher than the daily average. It varies on the peak hours. Saturday was somewhere around 20% higher in the PM peak hour. He said it comes out fairly comparable or a few percent higher. That's because you're getting your normal commuter peak anyways. What tends to happen during the Christmas season is that you just get larger chunks over the longer course of the day. If the Board chooses that the Christmas season is an important aspect, it's generally a thirty day period where there are between 3,000 - 3,500 more vehicle trips in and out of the driveway.

He said once it was decided that the model of the NRPC needed to be followed, you had somewhere between 70%-80% of the site traffic being oriented to and from the east during these peak hour analysis, with a chunk of that going on to Somerset and a chunk of it continuing on. He said when they talk about the differences between an average condition and a Christmas season on a Saturday, you're talking about 200 additional new trips where 70%-80% of them will be oriented to and from the east, which affect the left turn into the site or the left turn onto Somerset. These are the critical movements.

Mr. Scully said they already know what the existing site at Building 19 is doing so they compared it to what the proposed Wal-Mart store would do.

At this point both tapes (Tape 2) become poor in quality and either can't be heard at all or are so low that you can barely hear who is talking there is a hum over-riding what is being said. Tape improves a little later on.

Mr. Scully (in a response to a question Mr. Dufour asked which was unintelligible) said Christmas season is based on the same method, same data base, same guidelines that are used to project or calculate the average.

Mrs. Lasky said the applicant has suggested some mitigation and there are differing opinions on whether this is going to help. She asked if there is anything that he, as a traffic engineer, could suggest that would mitigate a project of this size or if he was suggesting that there be a moratorium on Amherst Street.

Mr. Scully said he is not going to suggest either one. He said there is more work to be done to see what needs to be implemented or designed. He said he has not focused on solving their problem. He hasn't been retained to solve the problem and come up with design solutions. He said there is no doubt that they are going to create an impact.

He said what he's gone through is their design analysis and their mitigation and seen some issues that will affect their analysis in the condition that will exist out there. He said he hasn't seen all their latest detail sheets. He said they may have some different assumptions than he has used. He said they started out with their conditions, taken comments going back and forth between the City's consultant and them, and made the adjustments.

Mr. Farkas asked if he is using their (Vanesse) numbers or the McMann numbers and Mr. Scully said he is using their numbers, not the McMann numbers.

He referred the Board to a chart that looked at the 101A Wal-Mart, the 101A Somerset intersections with and without pedestrians for key movements relative to the project - the left turn in to the Wal-Mart drive and the westbound through movement and the eastbound left turn onto Somerset, which is a double left turn lane.

He said they have identified what is available in terms of storage - the distance between the stop bar and entering into the approach. The results are from their analysis of 2016 build conditions with the improvements and what the 95<sup>th</sup> percentile

queue was resulting from the simulations. Then they just do a comparison.

He said they've looked at the proposed plan and it shows 290' will exist. He said their 95<sup>th</sup> percentile queue that they're calculating is 352'. What that says is that the 95<sup>th</sup> percentile queue is extending beyond that lane. He said the same thing occurs with the east bound left turn. There's about 400' (double left) and from the results it's coming to 480'.

He said the bottom three charts deal with pedestrians. He said the applicant has indicated crosswalks have been added to the plan to cross 101A. He said they assumed a low number of calls on the signal. Once the call is made, everything shuts down. You need about 24 seconds for the pedestrian to cross the street. Sometimes you can build a center median and get them to the center if there's enough width there to safely hold them and then start moving other vehicle movements and then let them cross on some other time. That's not part of the proposal that he has seen.

He said the biggest thing that they saw when they started adding in the pedestrian time was the through movement on 101A. It gets killed in terms of the simulation. It bottles up. The calculation comes out on the westbound through about 950', which the simulations basically put it backed up to the Somerset Parkway intersection. The numbers do not include a Christmas season.

He said he disagreed with the weave analysis as presented in the report. It's the weave between Somerset Parkway and the site drive. He said the method is a difficult one and largely related to almost freeway type analysis. It gets very difficult when the signals are close very together and you have turn lanes and driveways that interfere with the true weave and merge movement.

He said he spoke about the accident analysis last week in the Vanesse report. They do summarize accidents. The Somerset Parkway intersection is averaging over twenty-five accidents per year. None of the improvement plan really addresses that. He said they are adding volume and it doesn't appear to him that they are even trying to address that issue. He said the City's guidelines for traffic studies it does say that they may find in certain developments or certain areas as you see problems up along the corridor away from the particular site. He said it doesn't have to just be level of service and congestion. If

there are some safety issues they may need to be addressed by the project.

Mrs. Lasky said the 95<sup>th</sup> percentile queue that Mr. Scully mentioned is not a term that she is familiar with. She said towards the end of the report it states that it exceeds capacity if you have that. She asked if this is correct.

Mr. Scully said depending on the length of the lane. He said they should be cautioned on the traffic simulation - any modeling. He said it is complex. It's trying to mimic human behavior. It is used as a tool and may not give all the answers. He said you have to take it in with everything else that they are examining.

He said the Vanesse study ran a number of runs for each condition and they state that they average them. He said that is standard procedure. He said you really need to do a lot of runs to try to get the statistical variation minimized. He said Vanesse did three. He said he did five on certain conditions as the 2016 PM. The number of runs can affect what you see. He posed the question of whether they include all of the unsignaled driveways and the activity that can occur on a corridor. He said he didn't believe Vanesse's did and he didn't at this point.

Mr. Scully presented some illustrations of what the computer model does. He said they are based on the Vanesse projections. It does not include pedestrians. He apparently was using an overhead projector to illustrate as he spoke. He said this comes from one of the five runs they ran and the information in the table is an average of the runs. He showed the Board a picture of the intersection and he said there are going to be several of them and each slide was going to be ten seconds later. He said that the Board can see that on the east bound approach into the Wal-Mart drive it's starting to back up with the demand and it's starting to potentially affect the access into the right turn lane into the site. He said a few seconds later they can see that the queues are backed up. The left turn on Somerset is still running fine. Once they stopped the intersection for pedestrians they saw, on the simulation, the west bound movement on 101A almost solidified back to the Somerset Parkway intersection. He said the intersection at Townsend seemed to be problematic as well. He said a minute to a half minute later some of it is clearing out, but now the left turn movement onto the Parkway is picking up a bit. He said the

larger blocks represent trucks, which are just based on percentages of the trucks in the turning movement counts.

Mrs. Lasky asked if there is any way to correlate this to how many light cycles are involved.

Mr. Scully said it's a long cycle. It's around 130 or 140 some odd seconds cycle through the corridor. He said the shorter the cycle, the lower the vehicle delays (theoretically), which then says that there is a pretty good level of service, but the shorter the cycle on a saturated network, the longer the queues. He said around the 5:30PM mark the Board can see that the Somerset Parkway is reaching it's capacity.

Mr. Scully said what they are seeing these days are the ramps from the highways being loaded up and there is a vehicle sticking out into the outside lane and it feels very uncomfortable, if not a hazard. It's the same type of idea here. He referred to the diagram that shows the queue has reached its capacity and it's blocked access to the inside and vehicles headed to the left turn lane can't get there and even stop the through movement or kick over the through movement into the other lanes, which changes the dynamics.

Mr. Farkas asked a question - **unintelligible**.

Mr. Scully said he had a conversation with NRPC. He said he got a sense on the latest round that they haven't been that involved in the review process. He said that they did have a major comment letter in the original plan in 2003, which cause more adjustments to the base condition and more adjustments to the future condition and a lot more testing of potential options for the corridor.

He said that not every simulation run showed the same exact result He said the table he showed had the averages of all the runs. He said in his averages, they exceeded the left turn capacity in pretty much every case.

He said when you stop for pedestrians the issues become more critical. If the volumes are 100 - 300 low per direction, those issues become more critical. Then you factor in the Christmas season. If you need 350' in the average season you may need more than that in the peak retail season. He said he thought there was more work to be done to adequately address the issue. He said they don't want to add something that adds impact and this clearly has impact.

Mr. Lowe asked if the model takes into account the "U" turns that take place.

Mr. Scully said the counts and the model both include "U" turns. He said it's hard to see them on the snapshots he's taking and showing. If you watch all the movements you do see them in the model.

Mr. Dookran said Mr. Scully mentioned 46% more for holidays.

Mr. Scully said at the last meeting the applicant themselves mentioned that figure.

Mr. Dookran asked what Mr. Scully considered over what period of the year there would be holiday traffic.

Mr. Scully said when the representative from Vanesse was talking last week they were talking about the Christmas season. The ITE information says that the December traffic in a shopping center area is about 41%-42% higher than average.

Mr. Dookran said the through lane on the north side of 101A corridor is mostly underutilized today. He said he believes that because the lane drops quickly, a lot of people don't want to get into it. He said the applicant is proposing to take that beyond the Sunapee intersection. There are fourteen or so driveways between Somerset Parkway and that intersection. He asked if Mr. Scully thought they would see full utilization of that lane.

Mr. Scully said the analysis that he showed for 2016 included that third lane pass. What it doesn't include is the driveways. If you're really going to simulate that section of road you really would put in the fourteen driveways, because there is an interaction. He said either the studies that VHB did or NRCP did or McMann shows that outside lane on the north side is used about 10%. He said he used the default in the model where they have three lanes and assuming that they are going to get a better utilization of that outside lane. His opinion is that they aren't going to get full utilization, although they are probably going to get better than they get today. The activity out of those driveways will affect the use of that lane.

He said the table shows the average queue of the 95<sup>th</sup> percentile queue in the through lanes in the westbound approach exceed the length by a substantial amount of left turn lane which virtually blocks your ability to get in. This is also where the weave

starts to break down. You're leaving Somerset and now you have to weave over, but you don't have the distance during the peak times to do so.

Mr. Dookran said earlier tonight Dr. Fuller presented some traffic numbers that he counted today. He said that Dr. Fuller averaged 590 vehicles per hour in one direction or 1180 total. He said compared with the numbers that Mr. Scully has used, it is twice the amount. He asked if they could expect that kind of level of increase.

Mr. Scully said they could. He said he hasn't gone out and counted. He said he goes to Wal-Mart sometimes. He would expect that it would jump up during the Christmas season. He went to the ITE averages and their data base, which may or may not reflect the specific retailer.

Mr. Dufour said there's twenty-eight minutes left for the other side to speak and he is willing to bet that Atty. Prunier is going to need a lot more time to wrap up that side. He said they may wish to give them the option of waiting until the next meeting.

Atty. Jed Callen. Atty. Callen said he did not sign up a second time because he didn't think the Board was inviting that, but he wondered if, especially as it looks like this is going to go over into another meeting, he could have five minutes to summarize a legal issue for his side.

The Board decided to hear what Atty. Prunier had to say first.

Atty. Gerald Prunier. Atty. Prunier said it makes sense that the Board go on to the other cases on the agenda tonight and have a special meeting, or however the Board want to handle it, to finish with the Wal-Mart case. He said that depending upon the Board's questions they will probably take about two hours.

The Board decided to hear Atty. Callen at this point.

Atty. Jed Callen. Atty. Callen said this is a big project and there are a lot of people are concerned, more than two-hundred that have hired him. He said if it's taken two whole evenings, he doesn't think that's inappropriate for a proposal of this magnitude.

He said he has raised a few zoning issues that he has argued should either prevent the Board from approving or starting this

process. He said he didn't suggest that they start with those. He said he believes they are valid and he doesn't waive them. He said he believes the Board can deliberate and make a decision based on the criteria of Section 16-123(b). They give the Board a great deal of guidance and a great deal of deference to using their common sense to decide what is in the best interest of Nashua in terms of health, safety, nuisance, property values, aesthetics, and traffic conditions.

He said whatever the Board decides, the loser will make an appeal to the Superior Court. He said the Supreme Court has said over and over again that when they review a Planning Board's decision on site plan decisions a few things happen. They hold every factual determination that the Board makes in their findings or deliberations to be prima facie (reasonable and legal). He said in other words they aren't going to second guess whether something really is unsafe or a traffic hazard or not. It's explicit in the law that they presume that the Board could make that decision and they can't and don't want to. He said the Board heard the witnesses and went to the site. The Board read the testimony. The Superior Court will never do those things. It will only overturn if the Board has made a procedural error or if the decision is patently unreasonable.

He read from the "Cherry vs. Town of Hampton", decision dated 4/16/04. It said the trial court may not substitute its judgement for that of the Board. Furthermore, if any of the Board's reasons for denial supports its decision, then the plaintiff's appeal must fail.

He read another decision from "Summer Hummer Enterprises vs. Tilton" dated 5/24/04. It stated that the review by the Superior Court is not to determine whether it agrees with the Planning Board's findings, but to determine whether there is evidence upon which they could have been reasonably based.

Atty. Callen said in other words the court has said two Planning Boards hearing the identical testimony under the identical ordinance could decide in opposite directions and both be sustained. The trial court is not a super Planning Board.

He said there is also the TID case, which happened in 2002. He said it had to do with the Zoning Board of Adjustment, but the concept is totally appropriate. In that case testimony was heard that a proposal, a campground, was going to cause traffic hazards, congestion, and danger at a nearby intersection. The evidence showed it was going to be a problem, but if the Town

took some land around the intersection and trimmed the vegetation (or the State) that would solve the problem and then there wouldn't be a risk from adding traffic from this campground. The ZBA approved the request on the theory that this problem they admitted would happen was going to be solved by the activity of another agency. He said the Supreme Court concluded that by granting the special exception in the face of serious traffic hazards, the ZBA unlawfully waived or varied the conditions of the zoning ordinance - the conditions being that they not approve if there's a traffic hazard.

Atty. Callen said the court has said it's illegal for a Board to seek salvation and solution for the problems that are posed because someone else will improve the corridor or fix it and it will be okay in a few years.

He said what he's heard in this case is that they've done everything they can about their frontage, that they've spent two million dollars. He said he doesn't doubt that Wal-Mart had done everything it could do and if it cost three million they would have spent that. He said they are limited to that frontage. They can't buy and widen the road beyond that. According to their own testimony it won't be much of a problem if, within the next ten years, the corridor improvement extends in either direction. He said the Board cannot approve this by waiving the provision of Section 16-123(b)(3)(4)(5)(10) & (14), which are traffic related, because it will be solved by someone else. That would be tantamount to the Board saying they are going to relax the requirement that it won't cause a problem, that it won't generate excessive traffic or be unsafe or have significant impact on the public.

Mr. Dufour said he didn't think that Atty. Callen had said anything that the Board hasn't heard. He said they haven't heard from the applicant tonight. He said they heard their original presentation.

Atty. Callen said the Board has heard a site plan proposal with mitigation in it. The Board can tell the applicant they won't approve the request unless they are willing to make some changes. Then they have another hearing and they get to look at those. It's not like they don't know what the applicant wants to do. They know what's been proposed. He said that's what Mr. Scully critiqued. He said the opposition has to present sufficient questions, doubts, or arguments so that the Board can weigh what has been said to make their determination. He said

if Mr. Scully's analysis is even half right, the applicant's own numbers condemn their proposal.

He said Mrs. Lasky has asked what more could be done to make it safe and Mr. Thornton tried to answer as an engineer. He said as a lawyer he thinks that they have done just about everything that they can do. He said they can't fit ten pounds of ice cream into a five pound bucket. If it can't be made safe by whatever they are trying to do the solution lies with the Board denying the request. It is the wrong proposal for this site. Amherst Street cannot accommodate a Wal-Mart Super Center in 2005. He said maybe with the corridor improvement in 2012 it could.

Atty. Callen said the mitigation isn't good enough. It still bottlenecks. There's not enough distance to Somerset Parkway. The applicant's evidence shows that there's a loss of service there. He said there's a disagreement about how much, but he heard it. He said he thought the minutes would show that Mr. Thornton said there will be some loss of service at the adjoining intersections, but that they had done the best they could. He said he doesn't doubt the latter point, but if the best they can isn't enough, the solution is the Board can't approve.

Mr. Farkas said what he thinks Mr. Dufour was getting at is that Atty. Callen has come to this conclusion, but this is for the Board to decide.

Atty. Callen said that he doesn't doubt that the Board has the right to approve the request, approve with conditions, or to disapprove. He said he is urging the Board to deny the request because he thinks the evidence shows there are problems. He said whatever decision the Board makes, it's not as if the Courts are going to be looking at the traffic reports and saying that the Board decided wrong.

Mrs. Lasky said the Board's decision is never made on what may or may not happen after the meeting or who may or may not appeal. She said they try to do the best they can within their perview and in accordance with their ordinances.

There was a discussion about when the special meeting to hear the rest of Wal-Mart testimony would be held. A decision was made that it would be held on January 5, 2006 at 7:00PM.

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**MOTION** by Ald. Larose to table AS-VR Realty, LLC (Owner) - Proposed 15,524 square foot right of way dedication, 420 Amherst Street to January 5, 2006 at 7:00PM.

**SECONDED** by Mr. Lowe.

**MOTION** by Mr. Lowe to table Wal-Mart Stores Inc. (Applicant), AS-VR Realty, LLC (Owner) - Proposed amendment to NR1482 for the demolition of the existing Building 19 store and the development of a 147,080 square foot Wal-Mart store, with associated access, parking and site improvements, 420 Amherst Street to January 5, 2006 at 7:00PM.

**SECONDED** by Ald. Larose.

**MOTION CARRIED UNANIMOUSLY**

Mrs. Lasky said there will be testimony for those in favor at the next meeting for this case who are listed to speak.

3. **Armand Sancartier (Applicant) Exxon Mobil Oil Corporation (Owners) - Proposed amendment to NR1625 to demolish the existing fueling station and to show the construction of a two bay, 1,764 square foot car wash facility with associated access, parking and site improvements, 267 Main Street & Prospect Avenue, Sheet 97-Lot 13, Zoned GB/MU - General Business/Mixed Use. (Tabled from November 17, 2005)**

**Withdrawn**

**NEW BUSINESS - SUBDIVISION PLAN**

4. **4 Cox Street LLC (Applicant), Andrea J. Harding (Owner) - Proposed subdivision of one lot into two, 74 Cox Street, Sheet 137A - Lot 17, Zoned "RA" - Urban Residence.**

**MOTION** by Ald. Larose that the subdivision application is complete and that the Planning Board takes jurisdiction of the application.

**SECONDED** by Mr. Torosian.

**MOTION CARRIED UNANIMOUSLY**

**MOTION** by Mr. Lowe to table 74 Cox Street LLC per the applicant's request until 1/12/06.

**SECONDED** by Mr. Dufour.

**MOTION CARRIED UNANIMOUSLY**

**NEW BUSINESS - SITE PLANS**

5. Bellwether Community Credit Union (Applicant) George M. & Howard M. Kessler (Owners) - Proposed site plan for the construction of a 2-story, 9,000 square foot credit union with drive-thru and associated access, parking and site improvements, 409 Amherst Street, Sheet H - Lots 32 & 469, Zoned "GB" - General Business and "RC" - Urban Residence.

**MOTION** by Ald. Larose that the site plan application is complete and that the Planning Board takes jurisdiction of the application.

**SECONDED** by Mr. Farkas.

**MOTION CARRIED UNANIMOUSLY**

**MOTION** by Mr. Lowe to table Bellwether Community Credit Union site plan per the applicant's request until the 1/12/06 meeting.

**SECONDED** by Mr. Farkas.

**MOTION CARRIED UNANIMOUSLY**

6. Lowell Paper Box Company, Inc. (Applicant), Dumaine Avenue Real Estate, Inc. (Owner) - Proposed amendment to NR1864 to show the addition of 11,250 square feet to the existing 71,310 square foot building with associated site improvements, 23 Dumaine Ave., Sheet H - Lot 145, Zoned "PI" - Park Industrial.

**MOTION** by Mr. Farkas that the site plan application is complete and that the Planning Board takes jurisdiction of the application.

**SECONDED** by Ald. Larose.

**MOTION CARRIED UNANIMOUSLY**

Jeff Riley, Dubois & King. Mr. Riley said he is representing Lowell Paper Box. He said the purpose of the plan is to do two expansions to the existing building. He said there's a 6,930 square foot expansion to one side of the building and a 4,320 square foot expansion to the other side of the building. The

purpose of the expansions is to accommodate some new equipment that Lowell Paper Box needs to remain competitive in its field.

Mr. Riley said another part of this plan is to consolidate. He said the owner of this parcel also owns the parcel adjacent to it.

He said they met with the Zoning Board of Adjustment and received variances to encroach into the setbacks as well as to exceed the building area. There is a building on the second parcel that is going to be merged and the building will be torn down.

He said there is no change to the existing drainage. He pointed out a portion of the expansion that is over an existing parking lot, which means there is no increase to the impervious area for that portion. He said the other expansion is into the side yard and removing some impervious area. He said the net impact to the storm drainage system is negligible. The current storm drainage system will handle it.

Mr. Moran said that there is a letter from one of the abutters having to do with the construction of a fence. Apparently the fence was to have been built five years ago and hasn't been built yet.

He said the second question involves the removal of a shed, which he didn't quite understand.

Mr. Riley said he would have the owner answer these questions.

Mr. Lowe asked if any more parking spaces have to be added.

Mr. Riley said "no". They received approval from the Zoning Board for the number of parking spaces being provided.

**SPEAKING IN OPPOSITION OR WITH CONCERN**

No One.

**SPEAKING IN FAVOR**

No One.

Paul Connolly, Swart Terrace, Nashua. Mr. Connolly said he is the President of Lowell Paper Box Company. He said they were required to put up a fence and they did erect one. That fence

currently exists. He said on the lower half of the plan on display there is a light green area. Between that area there is a trailer that people used to live in and the Lowell Paper Box parking lot. The fence is in that area. He said he has subsequently purchased that land. Part of this submission is to incorporate the two lots. This amount of land more than offsets the amount of area they are building.

He said the shed that was referred to is on Lowell Paper Box Company's property. He said he's never required that the abutter tear it down. He said it's actually falling down. If he were to put a fence between the abutter's property on the upper left side of the plan he would have to tear down the abutter's shed. They were opposed to his tearing down the shed so he doesn't have any idea what they are talking about.

Ald. Larose asked if the trailer on the land that Mr. Connolly purchased is going to be removed.

Mr. Connolly said it will be removed. He said he has allowed an employee to live in the trailer, but they will move any time he wants them to move. He said in his mind, if he ever did require additional parking he would be back before the Board asking to turn this into parking area, but he doesn't need additional parking. He said he doesn't need all the parking he has at the current time.

Mr. Yeomans said one of the special conditions of the Zoning Board is that proper screening be placed along common property line of abutter to the east. He said it doesn't have to be a fence. He said he will work with the applicant to see what this is going to be. He said the conditions of the Zoning Board are covered in Stipulation #4 of the Planning Staff's memorandum.

**MOTION** by Mr. Dufour to approve the proposed amendment to NR 1864 to show the addition of 11,250 square feet to the existing 71,310 square foot building with associated site improvements, 23 Dumaine Avenue with the following stipulations:

1. Prior to any work being started, the applicant and their contractor shall hold a pre-construction conference with planning staff to review construction, erosion control, and related construction activity.
2. Prior to the issuance of a building permit a stormwater operation and maintenance plan shall be recorded.

3. Prior to a certificate of occupancy being issued all site work shall be completed.
4. This plan is subject to Zoning Board conditions of approval.

**SECONDED** by Mr. Farkas.

**MOTION CARRIED UNANIMOUSLY**

7. Gerard Reppucci (Owner) - Proposed site plan for the construction of a first floor 2,068 square foot Laundromat and two residential units on the second floor with associated access, parking and site improvements, Kinsley & Badger Streets, Sheet 86 - Lots 74 & 75, Zoned "LB" - Local Business.

**MOTION** by Mr. Lowe that the site plan application is complete and that the Planning Board takes jurisdiction of the application.

**SECONDED** by Mr. Farkas.

**MOTION CARRIED UNANIMOUSLY**

**MOTION** by Mr. Farkas to table the site plan for Gerard Reppucci to the 1/12/06 meeting as requested.

**SECONDED** by Mr. Lowe.

**MOTION CARRIED UNANIMOUSLY**

8. Bronstein Apartments, Nashua Housing Authority (Owner) - Proposed re-approval for an amendment to NR 1212 to show phased site improvements including parking, landscaping and pedestrian access, 41 Central Street, Sheet 80 - Lot 89, Zoned "RC" - Urban Residence. Previously approved on August 12, 2004.

**MOTION** by Mr. Lowe that the site plan application is complete and that the Planning Board takes jurisdiction of the application.

**SECONDED** by Mr. Farkas.

**MOTION CARRIED UNANIMOUSLY**

Mr. Lowe asked if there are any changes to the plan.

Jeff Merritt, Engineer, Keach Nordstrom Associates. Mr. Merritt said there is one minor change to the plan for four mounted walkway light fixtures. He showed the location on the plan. Otherwise, he said, this is the exact same plan that the Board approved in August 2004.

Mr. Farkas asked when the work is going to be done.

Mr. Merritt said this is scheduled for construction in the summer of 2006. He said the funds have now been allocated. It went out to bid and the contract has been awarded.

Mrs. Lasky asked if the four stipulations shown in the staff' recommendation are a carry over from the previous approval.

No answer was heard.

Mrs. Lasky asked if there is a reason why the light fixtures were added to the plan.

Mr. Merritt said the reason they weren't added before is because the City has an ordinance that requires a certain height light pole and a certain intensity. There are four pole mounted light fixtures that were proposed in front of a building (he pointed it out on the plan). He said this building is situated further back from Central Street. He said the same type of light, if positioned in front of the building would not conform to the ordinance.

**SPEAKING IN OPPOSITION OR WITH CONCERN**

No One.

**SPEAKING IN FAVOR**

No One.

Mr. Dookran said the last time this came to the Board he asked about the turn around at the end of the street for trucks. He asked if they looked at this.

Mr. Merritt said this is the plan that was approved by the Planning Board, with the exception of the lights. He said they have not re-visited that question. He said he was not the original engineer that did the design. He said if the Board

recalls there is a right-of-way that needs to be discontinued. He said they are still proposing to let the City turn around in the facility. He said he would put a turning template on it to see that a snow plow could turn around here.

Mr. Yeomans said the original plan that the Board approved met all the City requirements and all the City issues were addressed in the original plan. He said this is exactly the same plan. He said that the issue Mr. Dookran is talking about has been incorporated.

**MOTION** by Mr. Lowe to re-approve amendment to NR 1212 for 41 Central Street, Bronstein Apartments with the following stipulations:

1. Prior to any work being conducted the applicant and his contractor(s) shall hold a pre-construction conference with planning staff to review erosion control and tree protection. Trees to remain shall be suitably protected during construction.
2. Prior to any work being conducted in the public right-of-way bonding shall be approved by the Division of Public Works and Corporation Counsel.
3. This plan is subject to approval by the Board of Alderman of the Myrtle Street discontinuance.
3. This site plan is subject to compliance with the condition of approval as stipulated by the Zoning Board of Adjustment.

**SECONDED** by Mr. Farkas.

**MOTION CARRIED UNANIMOUSLY**

**Other Business**

1. **Review of tentative agenda to determine proposals of regional impact.**

**MOTION** by Mr. Dufour that there are no issues of regional impact on the upcoming agenda.

**SECONDED** by Mr. Moran.

**MOTION CARRIED UNANIMOUSLY**

2. **Referral from the Board of Alderman on Proposed R-05-334, authorizing the conveyance of certain parcels of land owned by the City of Nashua to the Business and Industrial Development Authority for subsequent resale and redevelopment for the purposes of expanding the tax base, encouraging business investment and creating employment.**

Mr. Houston reminded the Board that they have an amendment to the amended resolution in their packet.

Jay Minkarah, Economic Development Director, City of Nashua. Mr. Minkarah handed out some material to the Board. He said that he is assuming that the Board has had a chance to read the proposed resolution.

He said this is a proposal to transfer three parcels of City-owned property to the Business and Industrial Development Authority for the purpose of resale and redevelopment. He said what he handed out is the most recent language for the resolution, as amended coming out of the Infrastructure Committee. He said on the second page is a brief description of the properties. On the bottom there is an aerial of the sites.

He said on the left hand side outlined in yellow is the first parcel. He said it's just under three acres and is the site of the former Johns Manville site. He said they can see Sanders Street running up alongside the eastern side of the parcel. There's a small (under an acre) parcel on the east side of Sanders Street - one of the parcels involved. He said all the way over on the right hand side there is a large 8 ½ acre parcel right on the river is also one of the parcels.

He said in the center there is the existing Riverside Business Park. He said this is not part of the proposal.

He said on the right hand side near the bottom there is a white blotch right at Bridge Street. He said this is actually the existing skate board park. He said there's another parcel they can see in that vicinity. The skate board park is straddling two different parcels.

Mr. Minkarah said the intent of the legislation is to maintain the existing skate board park as well as the existing cell tower in that vicinity as well as to provide for its continued use and future expansion. He said there is also a provision to retain an easement for recreation and conservation for all the riverfront property within 100' of the shoreline to preserve an

area for the existing CSO overflow basin as well as a proposed CSO screening and disinfection facility which is proposed on the property and also to preserve an area suitable for use as a rectangular recreational athletic field and necessary accessory facilities such as parking, fencing, etc.

He said at this point there is no specific development proposal. The intent would be that if this goes through, the Business and Industrial Development Authority would most likely issue a request for proposals, put it out on the market and see what comes back. The concept would be an overall mixed use development that would be suitable for the area.

Mr. Minkarah said in looking through what the City's plans are for the properties, the Master Plan isn't very specific as to these properties, although the existing 8 ½ acre area is shown as open space and industrial development is what was shown for the Johns Manville site.

He said he's looked at the City's Parks & Recreation Master Plan. There was nothing really specific in terms of recommendations for the site, but the East Hollis Street Master Plan does address this area. He said the third page of what he handed out is a portion of the East Hollis Street Master Plan that talks about the zoning and redevelopment in the area. He said they can see that Riverside Business Park is looked at as a redevelopment area. The Johns Manville site is shown as mixed use and open space on the larger 8 ½ acre parcel.

He said the last page, which is the 8 ½" X 11" foldout is a concept for a larger park and recreation facility in this area and presumably some sort of mixed use development. The term "Gateway Park" is being used.

Mr. Minkarah said when you look at the language of the proposed resolution it's consistent with what the East Hollis Street Master Plan is envisioning. The result would be a mixed use development on the property that would include a significant riverfront recreational area and athletic field, maintenance of the existing skate board park, along with a mixed use development that he feels would be compatible with the overall goals of the plan.

Mr. Dookran asked if there are any requirements for the dike by the Army Corps of Engineers.

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Mr. Minkarah said the dike falls within the 100' reservation. He said the assumption is that they would be retaining the dike within the easement area. He said the assumption is that the dike is going to be maintained as it is.

He said he's been told that there is asbestos in the dike and it's possible that redevelopment on that property might have to address that.

**MOTION** by Mr. Lowe for favorable recommendation on R-05-334 to Board of Alderman.

**SECONDED** by Ald. Larose.

**MOTION CARRIED UNANIMOUSLY**

ADJOURNMENT at 11:35PM

**APPROVED:** \_\_\_\_\_

Bette Lasky, Chair, Nashua City Planning Board

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